



ITEM NUMBER: 8

PLANNING COMMITTEE DATE: 6 March 2024

REFERENCE NUMBER: UTT/23/2964/OP

LOCATION: Highwood Farm Stortford Road, Great Dunmow,

SITE LOCATION PLAN:



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Organisation: Uttlesford District Council Date: Feb 2023

PROPOSAL: Outline application with all matters reserved except for access for a residential development comprising 14 no. self-build dwellings together with access and road improvements to Buttleys Lane

APPLICANT: Millen Land Group Limited

AGENT: N/A

EXPIRY DATE: 22nd February 2024

EOT Expiry Date 15th April 2024

CASE OFFICER: Madeleine Jones

NOTATION: Outside Development Limits. Grade II Listed property (Highwood Farm). Within 500m of SSSI. Within 6km Stansted Airport. 500m Oil Pipeline consultation area. Within 20m of Local Wildlife Site (Flitch Way.) Within 250m of ancient Woodland (High Wood)

REASON THIS APPLICATION IS ON THE AGENDA: MAJOR application

1. EXECUTIVE SUMMARY

- 1.1** The proposal is Outline application with all matters reserved except for access for a residential development comprising 14 no. self-build dwellings together with access from and improvements to Buttleys Lane
- 1.2** This application follows an application of the same description UTT/22/3013/OP, which was refused. A Transport Statement addendum, additional access plans and a draft Unliteral Undertaking has been submitted to address the previous reasons for refusal. Application UTT/22/0391/OP also of the same description was the subject of an appeal (APP/C1570/W/22/3305483) which was dismissed.
- 1.3** The previous 2 reasons for refusal were:
1. The proposed development would cause less than substantial harm to the setting and significance of the listed buildings, NPPF paragraph 202 being relevant. The harm is considered to be at the medium point of the scale.

The proposals would fail to preserve the special interest of the listed buildings, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, because of excessive cumulative development within their setting. These proposals are therefore considered contrary to the implementation of Policy ENV2 of the adopted Uttlesford Local Plan 2005 and the NPPF.

2. The development fails to provide the necessary mechanism, to secure the necessary affordable housing and/or financial contribution in lieu of their provision and to the control the self-build provision and re-sale on the site contrary to Policies GEN6 and H9 of the Adopted Local Plan 2005 and the NPPF

1.4 The third reason for refusal (in respect of Insufficient information has been submitted to ensure safe and suitable access to the site for all highway users is provided) attached to UTT/22/0391/OP was overcome as part of application UTT/22/3013/OP

1.5 The applicant has now demonstrated, to the satisfaction of this Authority and Highway Authority , that safe and suitable access for all highways users can be provided to the site; that the proposed works are deliverable; and therefore, that the impact upon the highway network caused by this proposed will not have an unacceptable consequence on highway safety and therefore fails to comply with the requirements of Local Plan Policy GEN1.

1.6 The proposal does not comply with the requirements of adopted Local Plan Policy ENV2 which seek to protect the character of the area and the setting of listed buildings. The scheme also fails to comply with GDNP Policy DS1 which seeks to protect the rural setting of Great Dunmow. However, although the NPPF requires planning applications for sustainable development to be favourably considered, the benefits of the proposals need to be weighed against the harm identified. As the site is adjacent to listed buildings, Framework paragraph 208 requires that the harm to the significance of the listed building must be weighed against the public benefits. The public benefits of the proposal are not considered to outweigh the harm to the character and the setting of the heritage assets.

1.7 The applicant has agreed to submit an amended legal agreement to control the self-build provision and their resale on the site and also to secure a financial contribution in lieu of provision of on site affordable housing. (please see below)

1.8 As the public benefits of the development do not outweigh the harm to the setting of the heritage assets the tilted balance under Framework paragraph 11 (d) is not engaged.

2. RECOMMENDATION

That the Strategic Director of Planning and Building Control be authorised to REFUSE permission for the development for the reasons set out in section 17

3. SITE LOCATION AND DESCRIPTION:

- 3.1** The application site is 1.3 hectares (approximately), located to the west of Buttleys Lane and to the south of Stortford Road (B1256) also to the west of Great Dunmow.
- 3.2** Access is taken from Buttleys Lane, a single lane track.
- 3.3** The Flitch Way, a Local Wildlife Site, runs along the south of the site.
- 3.4** To the west of the site is a fencing business. The western boundary has post and rail fencing with trees beyond. The northern boundary has a mix of hedgerows and sporadic trees.
- 3.5** Planning permission has been granted for a school to the east of the site, on the opposite side of Buttleys Lane and 332 residential dwellings and a health centre beyond that (further to the east).
- 3.6** Planning permission (UTT/19/2354/OP) has been granted (on appeal) for 60 dwellings at the site to the north on 19th January 2022.
- 3.7** There are two Grade II listed buildings to the northeast corner of the site, a farmhouse and a converted barn.

4. PROPOSAL

- 4.1** Outline application with all matters reserved except for access for a residential development comprising 14 no. self-build dwellings together with access from and improvements to Buttleys Lane.
- 4.2** The application is supported by the following documents:
- Design and Access Statement
 - Heritage Statement
 - Preliminary Ecological Appraisal
 - Self Build Planning Passport
 - Flood Risk Assessment
 - Road safety Audit – stage 1
 - Tree Survey
 - Suds Water Quantity and Quality Report
 - Draft Unilateral Undertaking
 - Biodiversity Validation Checklist.
 - Financial Viability Assessment
- 4.3** The application is supported with an indicative masterplan and a set of guiding design principles and a plot passport.

- 4.4 Each plot has a defined area within which the dwelling may be constructed. The individual plots vary in shape and orientation and each plot has its own 'Plot Passport' which regulates the build footprint. Each plot is dimensioned, and the build zone is determined according to the specific configuration of the plot.

The application follows a recent appeal decision reference APP/C1570/W/22/3305483 (Application UTT/22/0391/OP) and application UTT/22/3013/OP. These were both refused, and the appeal dismissed. The agent has agreed to submit a new legal agreement to secure the financial contributions in lieu of affordable housing and to control the self-build provision and their resale on the site.

5. **ENVIRONMENTAL IMPACT ASSESSMENT**

- 5.1 The proposed development does not constitute 'EIA development' for the purposes of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

6. **RELEVANT SITE HISTORY**

- 6.1

Reference	Proposal	Decision
DUN/0264/68	Site for petrol filling station	Refused
DUN/0340/70	Site for wildlife preservation area	Refused
DUN/0380/70	Use of land as a naturist club	Refused
DUN/0462/71	Site for dwelling.	Refused
DUN/0497/62	Site for 2 dwelling	Refused
DUN/0646/72	Installation of gateway and extension to existing vehicular access	Approved with conditions
DUN/0716/69	Site for caravan	Approved with conditions
UTT/0094/05/FUL	Proposed erection of stables, tack room, hay store	Approved with conditions
UTT/0790/04/FUL	Conversion of barn and stable to dwelling. Erection of detached double cart shed/store and creation of new access. Change of use from agricultural land to garden use.	Approved with conditions
UTT/0791/04/LB	Conversion of barn and stable to dwelling with internal alterations	Approved with conditions
UTT/13/0068/CC	Application for the bagging of indigenous and imported aggregates together with the erection of a building	

UTT/13/1284/FUL	Conversion of barn and stable to dwelling. Erection of detached cart lodge	Approved with conditions
UTT/13/1370/LB	Conversion of barn and stable to dwelling including internal alterations	Approved with conditions
UTT/15/2046/HH F	Proposed new access/drive way with the erection of new gate/fence.	Approved with conditions
UTT/15/2326/FUL	Conversion of barn and stable to dwelling (amendments to planning application UTT/13/1284/FUL)	Approved with conditions
UTT/15/2329/LB	Conversion of barn and stable to dwelling (amendments to listed building consent UTT/13/1370/LB)	Approved with conditions
UTT/19/2354/OP	Outline application for the construction of up to 60 dwellings with a new vehicular access to be agreed in detail and all other matters to be reserved.(site to the north)	Allowed at appeal.
UTT/18/2574/OP	Hybrid planning application with: Outline planning permission (all matters reserved except for points of access) sought for demolition of existing buildings (excluding Folly Farm) and development of up to 332 dwellings, including affordable housing, 1,800 sqm Health Centre (Class D1) and new access from roundabout on B1256 Stortford Road together with provision of open space incorporating SuDS and other associated works. Full planning permission sought for demolition of existing buildings (including Staggs Farm) and development of Phase 1 to comprise 108 dwellings, including affordable housing,	Approved with conditions

	a new access from roundabout on B1256 Stortford Road, internal circulation roads and car parking, open space incorporating SuDS and play space and associated landscaping, infrastructure and other works. 14ha of land to be safeguarded for education use via a S.106 Agreement	
UTT/13/2107/OP	Outline application, with all matters reserved, for up to 790 homes, including primary school, community buildings, open space including playing fields and allotments and associated infrastructure (Land north of Stortford Road)	Approved with conditions.
UTT/22/0391/OP	Outline application with all matters reserved except for access for a residential development comprising 14 no. self-build dwellings together with access from and improvements to Buttleys Lane	Refused . Dismissed on appeal
UTT/22/2358/FUL	Erection of 5 no. dwellings, creation of new access and associated infrastructure	Refused
UTT/22/3013/OP	Outline application with all matters reserved except for access for a residential development comprising 14 no. self-build dwellings together with access from and improvements to Buttleys Lane	Refused

7. **PREAPPLICATION ADVICE AND/OR COMMUNITY CONSULTATION**

7.1 UTT/19/2544/PA: 40 dwellings, written advice only.

8. **SUMMARY OF STATUTORY CONSULTEE RESPONSES**

8.1 **Highway Authority**

8.1.1 The Highway Authority has assessed the information which has been submitted with the planning application. We note that this application is essentially a duplication of the previous application UTT/22/3013/OP (which was refused and dismissed at appeal), however, this current application includes a signed unilateral undertaking. The submitted unilateral undertaking is of no relevance to the highway authority, as such, our response remains much the same as our response to the previous application.

The proposal, as submitted, includes improvements to the public highway in the provision of pedestrian facilities along Buttleys Lane from the site to B1256 Stortford Road, the provision of passing bays along Buttleys Lane and carriageway widening. The detailed design for these highway works is yet to be completed, but the highway authority is satisfied that the improvement works can be delivered entirely within highway land.

8.1.2 The assessment of the application and Transport Statement, dated January 2024, was undertaken with reference to the National Planning Policy Framework 2023, in particular, paragraphs 114-116, the following have been considered: access and safety; capacity; the opportunities for sustainable transport; and mitigation measures

8.1.3 From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions.

8.2 Local Flood Authority

8.2.1 Holding objection.

9. Great Dunmow Town Council comments

9.1 No comments received

10. CONSULTEE RESPONSES

10.1 Fisher German LLP

10.1.1 Exolum Pipeline System does not have apparatus situated within the vicinity of your proposed work. No comment

10.2 UDC Environmental Health

10.2.1 Previous comments: Part of this site has a redundant MOD (Ministry of Defence) pipeline running through it, and this use could have resulted in ground contamination potentially harmful to human health. A minimum of a Phase 1 contamination survey of the site is required, but as there is no reason to suppose that any contamination could not be remediated by the use of standard techniques this may be secured by condition.

10.2.2 The site is located next to the busy A120 which is likely to be the dominate noise source that will impact on future occupiers of the proposed development. Whilst this is not considered a barrier to development, it is important to ensure that a suitable noise mitigation scheme is incorporated into the design and construction of the new dwellings, to ensure future occupiers are able to enjoy a good acoustic environment. (Subject to conditions).

10.2.3 This development has the potential to cause noise and dust impacts on the existing surrounding residential properties. A condition is recommended to protect the amenity of existing residential properties close to the site.

10.2.4 Air Quality

NPPF 2021 supports provision of measures to minimise the impact of development on air quality by encouraging non car travel and providing infrastructure to support use of low emission vehicles. A condition requiring charging points for electric vehicles is requested.

10.2.5 Energy saving and renewable technologies should be considered for this development in addition to the electric vehicle charge points, such as solar panels, ground source heat pumps etc in the interests of carbon saving and energy efficiency.

10.3 **Anglian Water**

10.3.1 No comment

10.4 **Essex Police**

10.4.1 Whilst there are no apparent concerns with the layout to comment further we would require the finer detail such as the proposed lighting, boundary treatments and physical security measures.

We would welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with this policy by achieving a Secured by Design Homes award. An SBD award is only achieved by compliance with the requirements of the relevant Design Guide ensuring that risk commensurate security is built into each property and the development as a whole.

10.5 **Place Services (Conservation and Heritage)**

10.5.1 Grade II listed Highwood Farmhouse (List entry number 1323789) has been dated to the late 15th century or earlier and is timber framed and plastered with a red plain tile roof, a crossing to the east and 16th century and later red brick chimney stacks. To the east of the farmhouse is Baytree Barn, a Grade II listed 17th century timber framed and weatherboarded barn with red pantile roof (listed as Barn at Highwood Farm, Buttleys Lane, List entry number 1142502). The listed buildings lie

on the west side of Buttleys Lane which becomes a track to the south of Highwood Farm, and the immediate and wider setting of the listed buildings is agricultural land which surrounds them on all sides.

10.5.2 The form and layout of the proposal for a housing development appears to be identical to that previously submitted under refused applications UTT22/3013/OP, and UTT/22/0391/OP. My advice provided in response to UTT/22/3013/OP in a letter dated 8th December 2022 was as follows:

10.5.3 The proposed development site is an area of land directly to the west and south of the listed buildings and forms part of the agrarian setting of both the historic farmhouse and barn, provides a direct link to their historic function, and makes a positive contribution to their significance. Historic England's GPA Advice Note 3 on The Setting of Heritage Assets (2017) provides details of factors to consider in assessing the contribution of setting to significance. In this case there are a number of factors in terms of the heritage assets' physical surroundings including green space, history, and degree of change over time and how the assets are experienced including the surrounding landscape character, views from and towards the assets, tranquillity, and land use. There is also the competition and distraction from the heritage assets that the new development will introduce, as well as the effects of light spill and increased noise and activity levels. Although I acknowledge that there has been change to the immediate setting of both listed buildings, as set out in the same Historic England guidance, where the significance of heritage assets has been compromised in the past by unsympathetic development affecting their setting, consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the assets. The cumulative impact of the current proposal along with the consented potential development of 60 new dwellings directly to the north and west of the listed buildings (UTT/19/2354/OP) should also be considered. The complete urbanisation of the land to the west of these heritage assets would effectively remove the important contribution of setting to their significance.

10.5.4 Application UTT/22/0391/OP was the subject of a dismissed appeal (APP/C1570/W/22/3305483, decision date 18th September 2023) in which the Inspector identified a level of less than substantial harm to the significance of listed Highwood Farmhouse. With regards to Highwood Farmhouse, this finding of less than substantial harm to significance concurred with the advice provided by this office in response to both previously refused applications, whilst the Inspector found that harm to the setting and significance of the listed barn would be negligible (Decision Notice paragraph 11).

10.5.5 In conclusion, I remain unable to support the proposed scheme in principle. In my opinion, the proposed development of dwellings will fail to preserve the special interest of the listed farmhouse, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. With regards to the National Planning Policy Framework (December

2023) the level of harm to significance is considered less than substantial (at the middle part of the scale) making paragraphs 205, 206 and 208 relevant

10.6 Place Services (Ecology)

10.6.1 No objection subject to securing biodiversity mitigation and enhancement measures.

10.7 Place Services (Archaeology)

10.7.1 No objections subject to conditions of Archaeological Programme of Trial Trenching followed by Open area Excavation.

10.8 Stansted Airport Aerodrome Safeguarding Authority,

10.8.1 The Safeguarding Authority for Stansted Airport has assessed this proposal and its potential to conflict with Aerodrome Safeguarding criteria. No objection raised subject to conditions.

10.9 MOD – Ministry of Defence

10.9.1 Previous comments: The pipeline is redundant. If the landowner wishes to remove the pipeline from the land they may do so at their own cost; however, as different methodologies were used to decommission pipelines, we would highly recommend using specialist contractors.

10.10 Cadent Gas

10.10.1 No objection.

10.11 Thames Water

10.11.1 No objection.

10.12 UK Power Networks

10.12.1 Should the excavation affect our Extra High Voltage equipment (6.6 KV, 22 KV, 33 KV or 132 KV) contact should be made to obtain a copy of the primary route drawings and associated cross sections.

10.12.2 Housing Strategy, Enabling & Development Officer

I confirm that an off-site affordable housing contribution of £365,565 as per the viability assessment commissioned by UDC would be acceptable.

11. REPRESENTATIONS

11.1 Site notices were displayed on site and 3 notifications letters were sent to nearby properties. Expiry 28th December 2023

11.2 2 representations have been received.

11.2.1 I am concerned to see the drive up to Highwood Farm has been relocated and there is no buffer zone between plot 1, 2 and the Boundary to Baytree Barn. Although layout has not been decided at this stage relocation of the drive to Highwood Farm would require a variation on the original planning application of UTT/15/2046/HHF |. I would suggest the current layout remains and the plots are moved to reflect this.

The current scheme also relies heavily on my boundary hedging, which is not acceptable. This hedging has taken me over 6 years to grow, and it has many gaps in sections. I would suggest provision for further hedging by the developer would be beneficial. I would therefore kindly ask for permission for alternative fencing/wall on my boundaries to enable on-going privacy and maintain security.

11.2.2 I also note the air source pump comments and I would expect noise levels to be investigated and for it not to impact our quality of living.

I believe the developer has taken much consideration and thought out a sympathetic approach to the scheme, unfortunately sometimes unless you live in the road or area these things are not apparent.

Regarding the listed building, as the immediate neighbour I consider that harm has already occurred due to the many planning permissions granted locally, particularly on the south side of Stortford Road and the 14 dwellings proposed will not significantly add to that harm. The wider agricultural area was changed dramatically when the railway was constructed in a cutting running east to west. That divorced both the farmhouse house and its barns from that wider area. There is a public benefit in allowing the 14 dwelling scheme, namely the improvements for users of Buttleys Lane, improvements that should have been sought within the permissions granted for other local major developments, north of Stortford Road in particular.

11.2.3 Friends of Flitch Way

Our volunteers work for the benefit of the community to conserve, protect and improve the physical and natural environment of the Flitch Way and other sites throughout Essex under the guidance of Essex County Council (ECC) Park Rangers and Public Rights of Way teams.

12.2.4 The Flitch Way is a linear wildlife-rich trail comprising a range of habitats of around 25 km length following the former Braintree to Bishops Stortford Railway Line with a small gap at Great Dunmow. It forms a vital long wildlife corridor covering approximately a third of the breadth of Essex. It connects the four Essex Wildlife Trust Living Landscape Areas of Hatfield Forest, Pincey Valley, Upper Chelmer and Pods Brook Valley and the nature reserves and open spaces of Hatfield Forest, Honeysuckle and David Cock Community Woodland (Great Dunmow), Oak Meadow (Rayne), Great Notley Country Park and Hoppit Mead and John Ray Park (Braintree).

- 12.2.5** The Flitch Way provides an easily accessible multi-user path, with a well surfaced 2m wide granite dust path running along most of its length, giving people the freedom of access to learn about the wildlife and industrial heritage. The Flitch Way Country Park is already designated a Local Wildlife Site reference Ufd196 and has recently been designated a Local Nature Reserve by English Nature.
- 12.2.6** It carries a bridleway along most of its length and is a popular and much loved greenway with over 70 access points, giving walkers, cyclists and equestrians access to the beautiful countryside of north west Essex. Part of what makes the Flitch Way so special is the surrounding rural landscape. It is under increasing pressure from development, and proposals like this will change its character forever. In the last 2 years there have been applications to build around 6,000 houses or commercial development across 17 sites directly adjacent to the Flitch Way.
- 12.2.7** To give you some context, the Flitch Way forms the southern boundary of the proposed site. In our opinion planning should be refused due to the impact it would have on the character and appearance of the Flitch Way, wildflowers, and wildlife. Greenspaces in Uttlesford are in high demand and should be protected for the health and well-being of residents.
- 12.2.8** We are also particularly concerned about the increased traffic down Buttleys Lane which is a single-track road with no passing places. It is currently the main Great Dunmow access route to the Flitch Way for pedestrians, cyclists, and equestrians. If the application is approved then road traffic measures should be in place to protect non-motorised users when they are using the lane including speed restrictions appropriate to its shared use.

12. MATERIAL CONSIDERATIONS

- 12.1** In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, The Development Plan and all other material considerations identified in the "Considerations and Assessments" section of the report. The determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 12.2** Section 70(2) of the Town and Country Planning Act requires the local planning authority in dealing with a planning application, to have regard to
- (a) The provisions of the development plan, so far as material to the application,;
- (a) a post-examination draft neighbourhood development plan, so far as material to the application,

- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

12.3 Section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, or, as the case may be, the Secretary of State, in considering whether to grant planning permission (or permission in principle) for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

12.4 The Development Plan

- 12.4.1** Essex Minerals Local Plan (adopted July 2014)
Essex and Southend-on-Sea Waste Local Plan (adopted July 2017)
Uttlesford District Local Plan (adopted 2005)
Felsted Neighbourhood Plan (made Feb 2020)
Great Dunmow Neighbourhood Plan (made December 2016)
Newport and Quendon & Rickling Neighbourhood Plan (made June 2021)
Thaxted Neighbourhood Plan (made February 2019)
Stebbing Neighbourhood Plan (made 19 July 2022)
Saffron Walden Neighbourhood Plan (made 11 October 2022)
Ashdon Neighbourhood Plan (made 6 December 2022)
Great & Little Chesterford Neighbourhood Plan (made 2 February 2023)

13. POLICY

13.1 National Policies

- 13.1.1** National Planning Policy Framework (19th December 2023)

13.2 Uttlesford Local Plan 2005

- 13.2.1** S7 – The countryside
GEN1- Access
GEN2 – Design
GEN3 -Flood Protection
GEN4 - Good Neighbourliness
GEN5 –Light Pollution
GEN6 - Infrastructure Provision
GEN7 - Nature Conservation
GEN8 - Vehicle Parking Standards
H9 - Affordable Housing
H10 - Housing Mix Policy
H1 – Housing Development
ENV2 - Development affecting Listed Buildings
ENV3 - Open Space and Trees
ENV4 - Ancient monuments and Sites of Archaeological Importance
ENV5 - Protection of Agricultural Land

ENV7 – The protection of the natural environment designated site
ENV10 -Noise Sensitive Development
ENV13 - Exposure to Poor Air Quality
ENV14 - Contaminated Land

13.3 Great Dunmow Neighbourhood Plan 2015-2032 Made December 2016

13.3.1 DS1:Town Development Area
DS15: Local Housing Needs
LSC1: Landscape, Setting and Character
DS13: Rendering, Pargetting and Roofing
DS12: Eaves Height
GA2: Integrating Developments
DSC: land south of Stortford Road and Land adjacent to Buttleys Lane.
GA3: Public Transport
DS9: Buildings for Life
GA1: core footpath and Bridleway Network.
DS11: Hedgerows
LSC-A The historic Environment.

13.4 Supplementary Planning document or guidance

13.4.1 Uttlesford Local Residential Parking Standards (2013)
Essex County Council Parking Standards (2009)
Supplementary Planning Document- Accessible homes and play space
Essex Design Guide
Uttlesford Interim Climate Change Policy (2021)
Developer Contributions SPD

14 CONSIDERATIONS AND ASSESSMENT

14.1 This application follows an application bearing the same description UTT/22/0391/OP which was refused and dismissed on appeal on 18th September 2023

14.1.1 It was refused for the following reasons:

1. Insufficient information has been submitted to ensure safe and suitable access to the site for all highway users is provided. The applicant has failed to demonstrate, to the satisfaction of the Highway Authority, that safe and suitable access for all highways users can be provided to the site; that the proposed works are deliverable; and therefore, that the impact upon the highway network caused by this proposed will not have an unacceptable consequence on highway safety.

Additional information would be required for the Highway Authority to further consider the application, to ensure safe and suitable access to the site for all highway users is provided, contrary to the Highway Authority's Development Management Policies, adopted as County

Council Supplementary Guidance in February 2011, and Uttlesford Local Plan Policy GEN1.

2. The proposed development would cause less than substantial harm to the setting and significance of the listed buildings, NPPF para 202 being relevant. The harm is considered to be at the mid-point of the scale. The proposals would fail to preserve the special interest of the listed buildings, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, because of excessive development within their setting. These proposals are therefore considered contrary to the implementation of Policy ENV2 of the adopted Uttlesford Local Plan 2005.
3. The development fails to provide the necessary mechanism to secure the required provision of appropriate infrastructure to mitigate the development, and to the control the self-build provision and re-sale on the site contrary to Policy GEN6 of the Adopted Local Plan 2005.

14.1.2 Application UTT/22/3013/OP was refused on 4TH September 2023. The first and third reasons for refusal were overcome and it was refused on the following:

1. The proposed development would cause less than substantial harm to the setting and significance of the listed buildings, NPPF paragraph 202 being relevant. The harm is considered to be at the medium point of the scale.

The proposals would fail to preserve the special interest of the listed buildings, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, because of excessive cumulative development within their setting. These proposals are therefore considered contrary to the implementation of Policy ENV2 of the adopted Uttlesford Local Plan 2005 and the NPPF

2. The development fails to provide the necessary mechanism, to secure the necessary affordable housing and/or financial contribution in lieu of their provision and to the control the self-build provision and re-sale on the site contrary to Policies GEN6 and H9 of the Adopted Local Plan 2005 and the NPPF

14.1.3 It is therefore necessary to assess whether the above reasons for refusal have been overcome and whether there are material reasons to change that decision. Additional documents have been submitted with this application and a draft Unilateral Undertaking to secure the self-build units' provision and resale and also for a financial contribution in lieu of provision of affordable housing on site.

14.2 The issues to consider in the determination of this application are:

14.2.1 A) Principle of Development

- B) Highways Safety and Parking Provision**
- C) Design and Amenity**
- D) Biodiversity**
- E) Impact on setting and adjacent listed building and heritage assets**
- F) Affordable Housing/Housing Mix/self-build**
- G) Contamination**
- H) Drainage and Flooding**

14.2.2 A) Principle of development

14.2.3 The application site is outside of the development limits and in the countryside (ULP Policy S7). Development in this location will only be permitted if the appearance of the development protects or enhances the particular character of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there. Policy S7, sets out at paragraph 6.13 of the Local Plan that outside development limits, sensitive infilling proposals close to settlements may be appropriate subject to the development being compatible with the character of the surroundings and have a limited impact on the countryside will be considered in the context of Local Policy S7.

14.2.4 This is consistent with paragraph 180(b) of the NPPF which seeks to recognise the intrinsic character and beauty of the countryside.

14.2.5 The National Planning Policy Framework 2024 describes the importance of maintaining a 5-year housing land supply (5YHLS) of deliverable housing sites. The Council's housing land supply currently falls short of this and is only able to demonstrate a supply of 4.50 Years Housing Land Supply (YHLS).

14.2.6 Paragraph 11 of the NPPF considers the presumption in favour of sustainable development, this includes where there are no relevant development plan policies, or where policies which are most important for determining the application are out-of-date. This includes where the 5YHLS cannot be delivered. As the Council is currently unable to demonstrate a 5YHLS, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11). A provision of 14 residential dwellings would make a valuable but modest contribution to housing supply within the District.

14.2.7 As advised, this presumption in favour of sustainable development is increased where there is no 5YHLS. In this regard, the most recent housing trajectory for Uttlesford District Council identifies that the Council has a 4.50 YHLS. Therefore, contributions toward housing land supply must be regarded as a positive effect.

- 14.2.8** However, the NPPF does not suggest that the policies of the Development Plan (including Policy S7) should be ignored or disapplied in such circumstances, instead requiring that the ‘tilted balance’ in paragraph 11 to be applied. It remains a matter of planning judgment for the decision-maker to determine the weight that should be given to the policies, including whether that weight may be reduced taking account of other material considerations that may apply, including the degree of any shortfall in the 5YHLS.
- 14.2.9** Paragraph 225 of the NPPF confirms that existing policies should not be considered out of date simply because they were adopted or made prior to the publication of the NPPF. Instead, it states that due weight should be given to them according to their degree of consistency with the Framework and that the closer the policies in the plan to the Framework, the greater the weight that may be given.
- 14.2.10** Paragraph 14 of the NPPF advises that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided **all** of the following apply:
- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made.
 - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement.
 - c) the local planning authority has at least a three-year supply of deliverable housing sites; and
 - d) the local planning authority’s housing delivery was at least 45% of that required over the previous three years.
- 14.2.11** The Neighbourhood Plan would however be a material consideration. The site is located outside the town Development area as established in the made Great Dunmow Neighbourhood Plan (GDNP). The GDNP, is now more than five years old and as such the added protection of Paragraph 14 would not however apply in respect of the Made Great Dunmow Neighbourhood Plan as this was made on December 2016 (greater than 5 years).
- 14.2.12** The proposal seeks the erection of 14 self-build dwellings together with access from and improvements to Butleys Lane. The Government encourages this form of housing provision and the available evidence indicates that there is an unmet need in the area. Whilst the scale of provision is modest in relation to the housing needs of the district as a whole, there is a shortfall in housing land supply. The Inspector at the recent appeal for the site gave moderate weight to the benefit of providing the additional self-build housing.
- 14.2.13** It is therefore necessary to assess whether the application proposal is sustainable and a presumption in favour is engaged in accordance with the NPPF. There are three strands to sustainability outlined by the NPPF

which should not be taken in isolation, because they are mutually dependent. These are all needed to achieve sustainable development, through economic, social, and environmental gains sought jointly and simultaneously through the planning system.

14.2.14 Economic:

The NPPF identifies this as contributing to building a strong, responsive and competitive economy, supporting growth and innovation and by identifying and coordinating development requirements, including the provision of infrastructure. In economic terms the proposal would have short term benefits to the local economy as a result of construction activity and additionally it would also support existing local services, as such there would be some positive economic benefit.

14.2.15 Social:

The NPPF identifies this as supplying required housing and creating high quality-built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The proposal would make a small contribution towards the delivery of the housing needed in the district.

14.2.16 Environmental:

The environmental role seeks to protect and enhance the natural, built and historic environment, including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

14.2.17 Paragraph 180 of the NPPF requires that planning policies should contribute to and enhance the natural and local environment by, amongst other matters, recognising the intrinsic beauty and character of the countryside. The Framework therefore reflects the objective that protection of the countryside is an important principle in the planning system and is one that has been carried forward from previous guidance (and is unchanged from the way it was expressed in previous versions of the NPPF).

14.2.18 The site is outside of the development limits and currently undeveloped. It is considered that the dwellings on this site would be harmful to the character of the landscape. The NPPF recognises the intrinsic character and beauty of the countryside. This proposal would have an urbanising impact on the character of the rural countryside setting. This proposal is contrary to the aims of paragraph 180 of the NPPF. Policy S7 is therefore a very important consideration for the sites, as it applied strict control on new building. Ensuring that new development will only be permitted if its appearance protects or enhances the character of the part of the countryside within which it is set or that there are special reasons why the development in the form proposed needs to be there. It is considered that the proposal would result in intensification in the built form within the immediate area that would in turn alter the character of the surrounding

locality, of which the effect would be harmful to the setting and character of the countryside. The proposal would introduce an element of built form within the open countryside, which would have significant impact on the character of the area. This impact would need to be weighed against the benefits.

14.2.19 The Council contends that this development would be harmful to the rural characteristics of the area, it would not be in keeping with the landscape character, by eroding the rural approach to Great Dunmow. It is very divorced from any built form on the southern side of the road. The allocated dwellings and proposed school site to the east of the site form the boundary of built form to the southwest of the town, with Butleys Lane being the defensible boundary of the built form. Near to the site is the Flitch Way, which must be protected in the event of the development of this site. The site also is adjacent to a Public Right of Way and cycle route.

14.2.20 A material consideration is the recent appeal for the site north of the application site. The recent planning appeal allowed for the erection of 60 dwellings west of Butleys Lane immediately north of the application site (UTT/19/2354/OP). When built this would change the character of the approach into Great Dunmow as would the development of the site to the east approved under UTT/20/1119/CC and UTT/18/2574/OP for a school and up to 332 dwellings and a health centre.

14.2.21 The proposal would extend development into the open countryside beyond clearly defined limits, diminishing the sense of place and local distinctiveness of the settlement. The proposal could be designed at reserved matters stage to minimise the harm caused. This harm would need to be weighed against the benefits of the proposal. The site is also adjacent to listed buildings of which the impact upon the Heritage assets are considered below. However, the proposal would have a detrimental impact on the character and setting of the Listed buildings, which would also need to be weighed against the benefits.

14.2.22 In view of the adjacent approved applications, taking into account the lack of five-year housing supply, the proposal is on balance considered to be acceptable in principle. However, paragraph 11d of the NPPF states that where there are no relevant development plan policies or the policies which are most important for determining the application are out of date granting permission unless.

i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶ or

ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefit, when assessed against the policies in this Framework taken as a whole. (Footnote 6 includes designated heritage assets and other designated assets)

14.2.23 The appeal decision stated that the improvements to Buttleys Lane would allow safe and suitable access for all users, their effect would be to

address the impact of the additional traffic generated by the proposal rather than to provide any additional benefits. As such, the improvements provide little positive support for the proposal.

14.2.24 The public benefits are not considered to outweigh adverse impacts to heritage harm and therefore the proposal is unacceptable

14.3 B) Highways Safety and Parking Provision

14.3.1 Policy GEN1 seeks to ensure development proposals would not adversely affect the local highway network and encourage sustainable transport options. This is generally consistent with the NPPF and has moderate weight.

14.3.2 ULP Policy GEN1 of the adopted Local Plan states that development will only be permitted if it meets all of the following criteria;

- a) Access to the main road network must be capable of carrying the traffic generated by the development safely;
- b) The traffic generated by the development must be capable of being accommodated on the surrounding transport network;
- c) The design of the site must not compromise road safety and must take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired;
- d) It must be designed to meet the needs of people with disabilities if it is development to which the general public expect to have access;
- e) e) The development encourages movement by means of other than driving a car.

14.3.3 Great Dunmow NP Policies GA1, GA2 and GA3 relate to various aspect of sustainable transport promoting other means of transport other than the private car, namely public rights of way and public transport. These principles form part of the principles of sustainable development in the 2023 NPPF and as such are considered to carry full weight.

14.3.4 Access is a consideration for this outline application. As part of this application, a Transport Addendum has been submitted, and revised access plans, including Buttleys Lane. The previous reason (1) for refusal for the previously refused application UTT/22/0391/OP bearing the same description has now been overcome

14.3.5 Buttleys Lane is a single-track road with no passing places. It is currently the main Great Dunmow access route to the Flich Way for pedestrians, cyclists and equestrians. Buttleys Lane is not included within the red line of the application site, however, sufficient information has now been submitted confirming that the improvements necessary to Buttleys Lane are deliverable. An updated topographical survey has been provided

14.3.6 The new Pegasus crossing serving the recently approved new developments to the north of the B1256 (providing a link to the Flich

Way), the usage of Buttleys Lane by pedestrians and cyclists is likely to intensify and therefore it is fundamental to maintain a safe access for other users other than those of a motor vehicle. Buttleys Lane leads onto the Flitch Way which is part of the National cycle route and has heavy demand for walking and cyclists. Managing conflicting users of the lane is very important. It has now been demonstrated that passing bays for vehicular traffic and pedestrians can be provided within highway land.

- 14.3.7** The intensification of Buttleys Lane by the occupants of 14 new dwellings is not considered to be insignificant.
- 14.3.8** The proposals are indicated to have one point of access onto Buttleys Lane.
- 14.3.9** With regards to the visibility splays, these can be provided within Highways owned land.
- 14.3.10** As stated, Buttleys Lane provides a crucial interface between existing residents of Great Dunmow, major new development, and access to the surrounding countryside for pedestrians, equestrians and cyclists seeking to access the Flitch Way Country Park, National Cycleway Network and extensive Public Rights of Way network for commuting, leisure and exercise and wellbeing. Introducing new access to residential development off Buttleys Lane will change the existing dynamic between vehicles and non-motorised users, particularly pedestrians using Buttleys Lane and the developer has now provided a mitigation scheme that will provide access to development whilst accommodating pedestrians, equestrians and cyclists.
- 14.3.11** The proposal, as submitted, includes improvements to the public highway in the provision of pedestrian facilities along Buttleys Lane from the site to B1256 Stortford Road, the provision of passing bays along Buttleys Lane and carriageway widening.
- 14.3.12** The Highway Authority are now assured that a mitigation scheme is capable of being delivered within the highway and can be subject to a planning condition. It has now been established that a safe form of access for all users of Buttleys Lane i.e. pedestrians, cyclists can be maintained /provided within highway land and the previous reason (1) for refusal has been overcome.
- 14.3.13** Any proposal would need to comply with the current adopted parking standards. The Council has adopted both Essex County Council's Parking Standards – Design and Good Practice (September 2009) as well as the Uttlesford Local Residential Parking Standards (December 2012), details of both of sets of standards can be found on the Council's website – www.uttlesford.gov.uk under supplementary planning documents. The applicant should adhere to guidance in the Essex Design Guide and the Local Plan Policy GEN8 – Vehicle Parking Standards.

- 14.3.14** The required parking provision requirement for C3 (dwellings) use is:
- A minimum of 2 spaces (3 spaces for 4+bedrooms) per dwelling and 0.25 spaces per dwelling for visitor parking.
 - Cycle provision - If no garage or secure area is provided within the curtilage of dwelling then 1 covered and secure space per dwelling in a communal area for residents.
 - Each bay size should be 5.5m x 2.9m, (the width should be increased by 1m if the parking space is adjacent to a solid surface)
 - The minimum internal dimension for garages is 7m x 3m.
 - Flats and houses are treated the same in respect of parking provision requirements and as such the two bed and three bed flats will each require 2 parking spaces. 4 visitor parking spaces are required. The visitor parking should be spread cross the site.
 - All parking surfaces shall be of a permeable material or drained to a soakaway.
 - Roads must meet adoptable road standards in respect of fire regulations and bin refuse collection.

14.3.15 It has been demonstrated that these parking requirements are achievable on the site, if 14 dwellings are built.

14.3.16 Recently the Council has adopted an Interim Climate Change Planning Policy requiring all new homes to be provided with at least one installed fast charging point.

14.3.17 The above requirements can be secured by a suitable worded condition.

14.4 C) Design and Amenity

14.4.1 Policy GEN2 sets out the design criteria for new development. In addition, Section 12 of the NPPF sets out the national policy for achieving well-designed places and the need to achieve good design

14.4.2 All matters for the current application are reserved except access. Scale, layout, materials, and landscaping cannot therefore be properly assessed at this outline stage.

14.4.3 The application is supported with an indicative masterplan, parameters plan, a set of guiding design principles and a plot passport.

14.4.4 Each plot has a defined area within which the dwelling may be constructed. The individual plots vary in shape and orientation and each plot has its own 'Plot Passport' which regulates the build footprint. Each

plot is dimensioned, and the build zone is determined according to the specific configuration of the plot.

14.4.5 In addition, other guiding principles relate to height, distances to boundaries, boundary treatment and the main frontage of each dwelling, together with access and parking. A full list is set out below:

- 'Build Area': Each plot owner has an identifiable 'build area' within which a maximum developable footprint can be delivered. The master layout and design vision affords variety and avoids repetition or uniformity.
- Scale and massing [Xm maximum and Xm minimum zones]
- Principal frontage location
- Parking spaces will be 'on plot' and can take the form of garages or car ports within the build area
- Landscape treatments, such as garden hedges; planting and maintenance
- Distance to boundaries minima: Side boundary X metres & front boundary X metres.
- Tree Root Protection Areas to be fenced during construction.
- Construction Accommodation to be positioned outside the Tree Root Protection Areas.
- Avenue Trees are to be positioned in the verge in line with plot boundaries.

14.4.6 Permitted Development: Future development is permitted within the original build footprint for each plot (notwithstanding planning permitted development allowances for extensions).

14.4.7 A sample Plot Passport include the provision of solar panels, Electric Charging Points, minimum of 25m² of intensive Green roofs, Air Source Heat Pumps and rainwater harvesting system for all non- green roofs.

14.4.8 The Uttlesford Local Plan (20 January 2005) was adopted before the Uttlesford Self and Custom Build register was set up. Therefore, there are no policies that specifically refer to self and custom build.

14.4.9 Self-build and custom housebuilding contribute to effective designs and sustainable construction, as well as facilitating the provision of a range of high-quality homes, the right mix of housing of appropriate size, type and tenure to help meet the demands of the different group within the community.

14.4.10 Even though the Council does not have current Policy on Self-Build and Custom Housebuilding the Council continues to support and encourage development proposals promoting a mix of housing sizes, types and tenure needed for different groups in the District. The housing mix includes affordable housing, family homes, homes for the elderly, renters, and people wishing to build their own homes.

- 14.4.11** Policy GEN2 of the local plan seeks amongst other things that any development should be compatible with the surrounding area, reduce crime, energy reduction, protecting the environment and amenity. The design shall be compatible with the scale, form, layout, appearance of surrounding buildings.
- 14.4.12** The development will not be permitted if it would have a materially adverse effect on the reasonable occupation and enjoyment of a residential or other sensitive property, as a result of loss of privacy, loss of daylight, overbearing impact, or overshadowing. Minimum distances are stated on the indicative masterplan.
- 14.4.13** The site is located in close proximity to the A120 and also there is one other potential noise source from the activities of the existing Dunmow fencing supplies which borders the west of the proposed site. A Noise Assessment report would be necessary to consider the impacts of noise and the possible mitigation measures. If approved this could be secured by a relevant condition.
- 14.4.14** To ensure future occupiers enjoy a good acoustic environment, in accordance with ULP Policy ENV10 a condition would be required if air source heat pumps are installed. There are proposed air source heat pumps shown on the sample plot Passport. If these are being considered these is a potential source of noise that could impact on dwellings unless suitably designed, enclosed, or otherwise attenuated. Their operation should not exceed the existing background noise level inclusive of any penalty for tonal, impulsive, or other distinctive acoustic characteristics when measured or calculated according to the provisions of BS4142: 2014+ A1: 2019.
- 14.4.15** In order to prevent ocular hazard and distraction to pilots using Stansted Airport, no solar photovoltaics are to be used on site without first consulting with the Aerodrome Safeguarding authority for STN.
- 14.4.16** In view of the site's location in relation to Stansted Airport, all exterior lighting to be capped at the horizontal with no upward light spill and no reflective materials to be used in the construction of these buildings. This can be achieved by a suitably worded condition.
- 14.4.17** The Essex Design Guide recommends the provision of 100m² private amenity space for 3 bedroom and above properties. The indicative plans shows that this is achievable.
- 14.4.18** The indicative plans show that all of the units would have private amenity spaces capable of being in accordance with the requirements set out in the Essex Design Guide.
- 14.4.19** As appearance, layout, landscaping and scale are reserved matters a full assessment of the potential impacts cannot be made at this time. Notwithstanding this, the indicative layout shows that the proposed

development could be accommodated on site without giving rise to residential amenity issues in respect of overlooking or overshadowing.

14.5 D) Biodiversity

- 14.5.1** Policy GEN7 and paragraph 118 of the NPPF require development proposals to aim to conserve and enhance biodiversity. Appropriate mitigation measures must be implemented to secure the long-term protection of protected species.
- 14.5.2** The application is accompanied by a completed biodiversity checklist and a Preliminary Ecological Appraisal (November 2021).
- 14.5.3** Past Specialist Ecology advise is that the mitigation measures identified in the Preliminary Ecological Appraisal (Hybrid Ecology Ltd., November 2021) should be secured by a condition of any consent and implemented in full. A further survey is being carried out at the end of February and the application will be updated at the planning committee meeting.
- 14.5.4** The development site is situated within the 14.6km evidenced Zone of Influence for recreational impacts at Hatfield Forest Site of Special Scientific Interest (SSSI)/National Nature Reserve (NNR) as shown on MAGIC map (www.magic.gov.uk). Therefore, Natural England's letter to Uttlesford DC relating to Strategic Access Management and Monitoring Strategy (SAMM) – Hatfield Forest Mitigation Strategy (28 June 2021) should be followed to ensure that impacts are minimised to this site from new residential development.
- 14.5.5** As a first step towards a comprehensive mitigation package, the visitor management measures required within Hatfield Forest SSSI / NNR have been finalised in a Hatfield Forest Mitigation Strategy.
- 14.5.6** As this application is less than 50 or more units, Natural England do not, at this time, consider that is necessary for the LPA to secure a developer contribution towards a package of funded Strategic Access Management Measures (SAMMs) at Hatfield Forest.
- 14.5.7** The proposed reasonable biodiversity enhancements including infill planting of hedgerows, tree/hedgerow planting, wildflower meadow creation and ponds and the installation of habitat boxes for bats and birds as well as the provision of Hedgehog Highways, which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 180d of the National Planning Policy Framework (2023). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy. This can be achieved by a suitably worded condition.
- 14.5.8** Given the habitats proposed as part of the enhancement, it is recommended that a Landscape and Ecological Management Plan (LEMP) is provided to outline how these proposed habitats will be

managed for the benefit of wildlife. The LEMP should be secured by a condition of any consent.

14.5.9 A Wildlife Sensitive Lighting Strategy should be delivered for this scheme to avoid impacts to foraging and commuting bats, especially on the vegetated boundaries.

14.5.10 Subject to suitable conditions to minimise the impacts of the proposal they confirm that the proposal is acceptable.

14.5.11 As such it is not considered that the proposal would have any material detrimental impact in respect of protected species to warrant refusal of the proposal and accords with ULP Policy GEN7.

14.6 E) Impact on setting and adjacent listed building and heritage assets

14.6.1 Policy ENV2 seeks to protect the setting of listed buildings, in line with the statutory duty set out in s66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Policy ENV2 does not require the level of harm to be identified and this is an additional exercise but one that does not fundamentally alter the basic requirements of the policy. Once the level of harm under Paragraph 199 of the Framework is identified, then the balancing exercise required by the Framework (here paragraph 202) must be carried out. Policy ENV2 is broadly consistent with the Framework and should be given moderate weight.

14.6.2 Policy ENV2 seeks to protect the fabric, character and setting of listed buildings from development which would adversely affect them.

14.6.3 Grade II listed Highwood Farmhouse (List entry number 1323789) has been dated to the late 15th century or earlier and is timber framed and plastered with a red plain tile roof, a crossing to the east and 16th century and later red brick chimney stacks. To the east of the farmhouse is Baytree Barn, a Grade II listed 17th century timber framed and weatherboarded barn with red pantile roof (listed as Barn at Highwood Farm, Buttleys Lane, List entry number 1142502). The listed buildings lie on the west side of Buttleys Lane which becomes a track to the south of Highwood Farm, and the immediate and wider setting of the listed buildings is agricultural land which surrounds them on all sides.

14.6.4 An application (UTT/22/2358/FUL) for a development of 5 new dwellings on land to the south of Brady's Barn directly adjacent to the site which is the subject of this application, was refused with less than substantial harm to the significance of the listed buildings (through development in their setting) amongst the reasons for refusal.

14.6.5 Paragraphs 205, 206 and 208 of the NPPF state: When considering the impact, the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight

should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, the significance, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

- 14.6.6** A number of housing developments have been approved in the immediate vicinity of the listed buildings which will have a cumulative impact on their setting.
- 14.6.7** UTT/13/2107/OP development of 790 homes on the north side of Stortford Road.
- 14.6.8** UTT/20/1963/CC development for a new school and associated infrastructure on land directly to the east of the listed buildings.
- 14.6.9** UTT/19/2354/OP development of up to 60 homes on the field directly to the north of the listed buildings, allowed on appeal in January 2022.
- 14.6.10** The Heritage Statement submitted with the original application found a moderate level of less than substantial harm to the significance of Highwood Farmhouse and the neighbouring barn arising from the proposals.
- 14.6.11** The proposed development site is an area of land directly to the west and south of the listed buildings and forms part of the agrarian setting of both the historic farmhouse and barn, provides a direct link to their historic function, and makes a positive contribution to their significance.
- 14.6.12** There are a number of factors in terms of the heritage assets' physical surroundings including green space, history and degree of change over time and how the assets are experienced including the surrounding landscape character, views from and towards the assets, tranquillity, and land use. There is also the competition and distraction from the heritage assets that the new development will introduce, as well as the effects of light spill and increased noise and activity levels.
- 14.6.13** Development on this site will fundamentally alter the context of the listed buildings, severing the link between the surrounding agricultural land and the listed buildings and divorcing them from their wider rural context. This would have a significant impact upon the ability to understand and appreciate them as an historically rural farmhouse and barn serving the wider agrarian landscape. The cumulative impacts of the surrounding developments would be urbanising, changing the rural context of the listed buildings and leading to them being surrounded by built development. This would affect both the understanding and appreciation of the listed buildings as a rural farmstead.

- 14.6.14** The complete urbanisation of the land to the west of these heritage assets would effectively remove the important contribution of setting to their significance.
- 14.6.15** The current application is for a development of 14 dwellings on the land directly to the south and west of the listed buildings. The application site constitutes the last area of open land around the heritage assets.
- 14.6.16** Given that moderate harm was identified because of the development to the north, it is considered that development on the application site would have a greater impact because of the cumulative effect of the proposals. While the impact could be mitigated to some extent through appropriate design, landscaping buffer and materials at the reserved matters stage, the cumulative impact of the proposals would be harmful to the setting of the listed buildings.
- 14.6.17** Specialist conservation Officers advice is that the proposed development of dwellings will fail to preserve the special interest of the listed buildings, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. With regards to the National Planning Policy Framework (2021) the level of harm to significance is considered less than substantial (at the medium part of the scale) making paragraphs 200 and 202 relevant.
- 13.6.18** Against the conservation officer's advice is that of the appeal inspector who stated: "Overall, I consider that the proposed development would cause less than substantial harm to the setting of Highwood Farmhouse. The harm to the setting of the listed barn would be negligible. Nevertheless, I am required to give considerable weight and importance to the desirability of preserving the settings of listed buildings. The proposal would also conflict with Policy ENV2 of the Uttlesford Local Plan 2005 (LP) which presumes against proposals that adversely affect the settings of listed buildings and paragraph 205 of the National Planning Policy Framework (the Framework) to the extent that it has similar aims".
- 14.6.19** Framework paragraph 208 requires that the harm to the significance of the listed building must be weighed against the public benefits of the proposal.
- 14.6.20** The proposal would include limited public benefits, to include the provision of 14 dwellings and the development during construction and future occupation would positively contribute to the local economy.
- 14.6.21** The proposal would now result in financial contributions in lieu of the provision of affordable housing for the amount of £365,565, however this is a requirement of Uttlesford Local Plan Policy H9 and is supported by the NPPF (Paragraphs 64- 66)

14.6.22 The Planning inspector when balancing harm stated “The proposal would cause less than substantial harm to the setting of Highwood Farmhouse listed building. As required by Framework paragraph 199 (now 205) I give great weight and importance to this harm. Again, I attach considerable weight to the conflict with LP Policy ENV2. The provision of 14 self-build plots would provide a moderate public benefit. Other public benefits are limited. Collectively, the public benefits do not outweigh the identified harm to the setting of the listed building.”
The financial contribution in respect of affordable housing is not considered to alter the balance and that the public benefits on balance do not outweigh the less than substantial harm to the Heritage Assets and their setting.

14.6.23 In terms of the tilted balance under NPPF paragraph 11(d) the adverse impacts of granting permission through the harm to the setting of the listed building would significantly and demonstrably out weight the moderate benefits of the proposal when assessed against the policies in the NPPF as a whole.

14.6.24 As such, the outcome of the Framework paragraph 11(d) exercise is that the application should not be determined otherwise than in accordance with the development plan. The proposal conflicts with LP Policies H9 and ENV2 as well as a number of the Framework aims. The proposal does not benefit from the presumption in favour of sustainable development and the application should be refused.

14.6.25 Policy ENV4 seeks to protect archaeological heritage assets.

14.6.26 The County Archaeologist has identified that the site lies within an area of known archaeological deposits. The proposed development area has the potential to contain significant archaeological remains. Excavations to the north of the proposed development identified early medieval remains (EHER49678). It is located adjacent to a known area of cropmark evidence indicating a number of potential prehistoric and medieval features (EHER 14075). To the north of the proposed development is the Roman road of Stane Street (EHER 1226, 4698). Medieval coins and Bronze Age pottery has been identified just south of the proposed development (EHER 45330, 54973). There is therefore the potential for early medieval, medieval and Roman archaeological remains within the proposed development.

14.6.27 The County Archaeologist has recommended an archaeological programme of trial trenching followed by open area excavation. This can be secured by condition if planning permission is granted.

14.7 F) Affordable Housing/housing mix/self-build

14.7.1 On sites of 0.5 hectares or more or of 15 dwellings or more, the Council will seek 40% of affordable housing. This application is for 14 dwellings and 3.1 hectares.

- 14.7.2** The proposed development is for self-build. The self-build and Custom Housebuilding Act 2015 provides a legal definition of self-build and custom house building. The Act does not distinguish between self-build and custom house building and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals. In considering whether a self-build, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout.
- 14.7.3** The Government is committed to boosting housing supply and believes that the self-build and custom housebuilding sector has an important role to play in achieving this objective.
- 14.7.4** Paragraph 63 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including people wishing to commission or build their own homes).
- 14.7.5** Self-build and custom housebuilding contribute to effective designs and sustainable construction, as well as facilitating the provision of a range of high-quality homes, the right mix of housing of appropriate size, type and tenure to help meet the demands of the different group within the community.
- 14.7.6** Even though the Council does not have current Policy on Self-Build and Custom Housebuilding the Council continues to support and encourage development proposals promoting a mix of housing sizes, types and tenure needed for different groups in the district. The housing mix includes affordable housing, family homes, homes for the elderly, renters, and people wishing to build their own homes.
- 14.7.7** A S106 is required to cover for the occupancy and restrictions on re-sale for the self-build plots. A draft unilateral agreement has been submitted; however, this has inaccuracies as it relates to application UTT/22/0391/OP, an application for the same site and not this application and also does not include any mechanism to secure the affordable housing contributions (although the agent has stated in the design and Access statement (1.2) that this application “remains unchanged other than the submission of a new legal agreement to secure off site affordable housing”) and thus achieve compliance with NPPF and Local Plan Policies in respect of Affordable Housing. and agreed to amend the Unilateral Undertaking to amend the application number and to agree to the payment of a financial contribution in lieu of affordable housing.
- 14.7.8** As stated above, as the site is over 0.5 hectares 40% of affordable housing is required under policy H9. Self-build does not fall under the definition of affordable housing as stated at Annex 2 : glossary of the NPPF

Paragraph 65 of the NPPF states that: Where major development involving the provision of housing is proposed planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership ³¹ unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exceptions to this 10% requirement should also be made where the site or proposed development:

c) is proposed to be developed by people who wish to build or commission their own homes

14.7.9 The footnote 31 states that “As part of the overall affordable housing contribution from the site”

14.7.10 The need for affordable rented units within Great Dunmow is as follows:

Gt Dunmow: calculated bedroom need for Affordable Rented	Number of applicants in housing need
1 bedroom	76
2 bedrooms	45
3 bedrooms	45
4 or more bedrooms	7
Bedroom need to be assessed	18
Total	191

14.7.11 The Adopted Developers contributions SPD states With the introduction of First Homes the Council will seek an affordable housing split of 70% affordable rent, 25% First homes and 5% shared ownership.

14.7.12 This amounts to 4 units of affordable housing (relating to the rented units) or a financial contribution in lieu of provision i.e., 70% of the 40% required by policy H9

14.7.13 In exceptional circumstances where on-site cannot be achieved, off site provision and/or commuted payments in lieu may be supported where this would offer an equivalent or enhanced provision of affordable housing. Paragraph 66 of the NPPF requires of-site provision or a financial contribution to be robustly justified

14.7.14 The applicant has submitted a Financial Viability Appraisal in respect of the required affordable housing contributions.

14.7.15 This found that on a 100% open market value basis that the development cannot viably make the requested affordable housing contribution or any S106 payments

14.7.16 The viability assessment has been reviewed by an independent firm and they have drawn different conclusions upon the accuracy of the applicants assumptions

14.7.17 Their review concludes that an affordable housing contribution of £356,565 could be viably provided as part of this application.

14.8 G) Contamination

14.8.1 Policy ENV14 states that before development, where a site is known or strongly suspected to be contaminated, a site investigation, risk assessment, proposals and timetable for remediation will be required. Environmental Health Officers have been consulted and they state that a precautionary contaminated land condition is recommended.

14.9 H) Drainage and Flooding

14.9.1 Policy GEN3 seeks to protect sites from flooding and to ensure that development proposals do not lead to flooding elsewhere. This policy is partly consistent with the NPPF, although the current national policy and guidance are the appropriate basis for determining applications. As such, this policy has limited weight.

14.9.2 The site is located within Flood Zone 1 and therefore the area least likely to flood.

14.9.3 The Local Lead Flood Authority raise no objections to the proposals subject to conditions. As such, the proposal complies with Policy GEN3 and the policy set out in the NPPF.

14.10 Other material considerations

14.10.1 The applicant has submitted a draft Unilateral agreement with this application; however, it refers to the appeal planning application UTT/22/0391/OP and not this application

14.10.2 A revised Unilateral Undertaking could secure the control of self-build provision and resale on the site which would remove the previous reason for refusal in this respect. Although the requirement for financial contributions in lieu of affordable housing needs to be secured. The submitted draft has not been signed by the relevant parties and does not include any mechanism for securing the affordable housing contribution required. The applicant has however, confirmed that they are now willing to pay the amount suggested by the independent assessor. An affordable

housing contribution of £356,565 can be viably provided as part of the application. This can be secured by a revised unilateral undertaking.

15. ADDITIONAL DUTIES

15.1 Public Sector Equalities Duties

15.1.1 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers.

15.1.2 The Committee must be mindful of this duty inter alia when determining all planning applications. In particular, the Committee must pay due regard to the need to: (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

15.1.3 Due consideration has been made to The Equality Act 2010 during the assessment of the planning application, no conflicts are raised.

15.2 Human Rights

15.2.1 There may be implications under Article 1 (protection of property) and Article 8 (right to respect for private and family life) of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions; however, these issues have been taken into account in the determination of this application.

16. CONCLUSION

16.1 The principle of the development is on balance considered to be acceptable. It is considered that the weight to be given to the requirement to provide a 5 YHLS and the housing provision which could be delivered by the proposal would outweigh the harm caused to countryside.

16.1.2 All matters for the current application are reserved except access. Scale, layout, materials, and landscaping cannot therefore be properly assessed at this outline stage

16.1.3 Subject to conditions securing mitigation measures, the proposal would not have any material detrimental impact in respect of protected species and would accord with ULP Policy GEN7.

- 16.1.4** It is not considered that the public benefits on balance outweigh the less than substantial harm to the Heritage Assets and their setting. These proposals are therefore considered contrary to the implementation of Policy ENV2 of the adopted Uttlesford Local Plan 2005.
- 16.1.5** A S106 is required to cover for the occupancy and restrictions on re-sale for the self-build plots and for affordable housing contributions in lieu of provision. This has been agreed, Unilateral Undertaking submitted is not adequate.
- 16.1.6** The proposal subject to conditions would accord with ULP Policy ENV14 in terms of contamination.
- 16.1.7** The site is at low risk of flooding. The proposal complies with Policy GEN3 and the policy set out in the NPPF.
- 16.1.8** Recommendation: Refusal

17. REASONS FOR REFUSAL

- 1** The proposed development would cause less than substantial harm to the setting and significance of the listed buildings, NPPF para 202 being relevant. The harm is considered to be at the mid-point of the scale. The proposals would fail to preserve the special interest of the listed buildings, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, because of excessive development within their setting. These proposals are therefore considered contrary to the implementation of Policy ENV2 of the adopted Uttlesford Local Plan 2005.
- 2.** The development fails to provide the necessary mechanism to secure the required provision of appropriate infrastructure to mitigate the development, secure the necessary affordable housing or financial contribution in lieu of provision and to the control the self-build provision and re-sale on the site contrary to Policy GEN6 of the Adopted Local Plan 2005 and the NPPF.