

**Committee: Planning**

**Agenda Item**

**Date: 1 May 2024**

**Title: UTT/22/2035/FUL- Erection of 30 no. self-build and custom dwellings.**

**Author: Nigel Brown, Head of Development Management  
Chris Tyler, Senior Planning Officer**

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## Summary

1. This application was considered and the Planning Committee resolved to grant permission on the 8th February 2023, subject to the completion of S106 agreement to secure a number of infrastructure provisions including an off-site financial contribution in lieu of the 8 Affordable Housing units, the heads of terms included the following:

- i. Off-site financial contribution in lieu of the 8 Affordable Rental Properties;
- ii. Custom / self-build dwellings;
- iii. Provision of 5% wheelchair accessible and adaptable dwellings (M4 (3) – Building Regulations 2010);
- iv. Payment of education financial contributions; Early Years, Primary & Secondary;
- v. Provision and long-term on-going maintenance of public open space (including LAP);
- vi. Financial contributions towards bus strategy;
- vii. Residential Travel Packs; &
- viii. Monitoring cost.

2. The history of the application/ site includes the following:

**UTT/20/1744/FUL-** Proposed 30 no. Self-build and custom dwellings  
Refused  
Appeal Dismissed  
Judicial Review- Inspectors decision quashed

**UTT/21/2719/FUL-** Proposed erection of 32 no. self-build and custom build dwellings (adjoining site)  
Approved

**UTT/19/1508/FUL -** Construction of 22 custom/ self-build dwellings (adjoining site)  
Approved

3. Following the approval of this application the applicant has provided a high court judgement following the judicial review of the original refused planning application (UTT/20/1744/FUL) which was subsequently dismissed at appeal. The appeal decision was quashed on Thursday, 27 April 2023 as a result of the judicial review.
4. The Planning Inspector that determined the appeal found fault with the unilateral undertaking (S106) document and its execution and concluded the Council would not be able to rely on it to ensure the obligations it contained. Most notably, the S106 provided to the Inspector referred to a planning permission that shall come into effect only if the permission is granted by UDC (as opposed to PINS). Therefore the s106 failed on a technical point.

This was the sole point which concerned the Planning Inspector, and the only one which is mentioned in the PINS decision, it was stated *“For this reason, I am not satisfied that the submitted UU would be capable of taking effect and securing the intended obligations. As such, I cannot afford weight to the obligations which it contains.”*

The High Court later considered the Inspector failed to provide a new enforceable condition that would have resolved the issue of the UU, quashed the appeal decision and it must now be re-made.

5. In regards to affordable dwellings, paragraph 2 of the judgement states:  
*“The application, which was refused by the Council, was to create thirty new self-build and custom dwellings. In the context of this application, there were various forms of contribution to housing which would be required but, although the Council did not necessarily accept this proposition, the Inspector did, which was that, provided that they were new self-build and custom dwellings, then there was an exemption from providing those contributions”*
6. As a result of the Judicial Review, it was established planning application UTT/20/1744/FUL did not include a requirement for affordable housing as there is not a requirement in the NPPF for self-build applications to provide affordable housing, this was not contested by the Planning Inspector. As such this decision is a material consideration in the current planning application (UTT/22/2035/FUL) and one which the Planning Committee did not have before it previously.
7. When reviewing this current application, it is considered that subject to a legal agreement the proposal will require the whole development to be custom and self-build homes, which will contribute to the identified needs within the district. Also, by comprising entirely self-build plots, the proposed development would be exempt from making an affordable housing contribution under the provisions of the Framework.
8. It is noted that following the revised version of the NPPF on the 20 December 2023, the content included in the relevant paragraphs that considers

affordable homes has not been amended. As such it is considered the proposal changes to the application would be in accordance with the NPPF 2023.

9. On the basis of the recent high court decision, it is now proposed to remove the affordable housing element from the current resolution to grant permission prior to completion of the S106. This would be in accordance with the paragraph 66 (c) of the NPPF and details formed as part of the Judicial Review.

**It is recommended that Planning Committee amends it's previous resolution to remove the financial contribution for the 8 affordable rent properties. All other provisions and conditions as made on 8th February 2023 would remain the same.**

### Background Papers

UTT/20/1744/FUL- Judicial Review Judgement (Appendix 1)

Minutes and decision of the Planning Committee 8 Feb 2023 (Appendix 2)

UTT/22/2035/FUL- Committee Report 8 Feb 2023 (Appendix3)

### Impact

- 1.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

### Risk Analysis

- 1.

Risk	Likelihood	Impact	Mitigating actions
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1	1	1	None
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1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

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IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

ADMINISTRATIVE COURT

[2023] EWHC 2588 (Admin)



No. CO/56/2023

Royal Courts of Justice

Thursday, 27 April 2023

Before:

MR JUSTICE WAKSMAN

BETWEEN:

ST EDMUNDS LANE MANAGEMENT

Claimant

- and -

(1) SECRETARY OF STATE FOR  
ENVIRONMENT, FOOD AND RURAL AFFAIRS

(2) UTTLESFORD DISTRICT COUNCIL

Defendants

MISS S HALL (instructed by Holmes & Hills LLP) appeared on behalf of the Claimant.

MR A BOWES (instructed by HM Treasury Solicitors) appeared on behalf of the Defendants.

J U D G M E N T

MR JUSTICE WAKSMAN:

1 I am very grateful to counsel for their written and oral submissions by which I have been greatly assisted. I have come to a very clear view on this. I am going to grant permission on both Grounds 1 and 2. As I am granting permission, I do not need to give a lengthy judgment but I will explain my reasons as briefly as I can.

2 This, in my view, was an extremely unusual case in terms of what happened before the Inspector. The application, which was refused by the council, was to create thirty new self-build and custom dwellings. In the context of this application, there were various forms of contribution to housing which would be required but, although the council did not necessarily accept this proposition, the Inspector did, which was that, provided that they were new self-build and custom dwellings, then there was an exemption from providing those contributions.

3 The way that the applicant chose to deal with this was by proffering a unilateral undertaking to the council and then, when the council refused permission, it was provided to the Inspector who conducted the appeal on the basis of the "written representations only" procedure.

4 The Inspector, looking at the unilateral undertaking, which included not only a commitment to ensure that the properties were built and sold as self-build and custom units, but also a contribution to local educational facilities and, I think, bus facilities, first of all, held that on the basis that the unilateral undertaking was valid, the additional contributions were not needed. The core point was the commitment to the self-build and custom houses. However, at para.26 the Inspector then said that, although she was going to go on to deal with the substance of the undertaking (as she did), she said she had concerns about the undertaking document and its execution and, therefore, whether the council could rely on it to secure the obligations it contained.

5 Most notably, the proposed undertaking provided to the Inspector referred to a planning permission to granted by the council to which it had originally been offered. Condition 5 in a lengthy and detailed lawyer-drafted document, said this:

"This planning obligation shall come into effect only if the permission is granted by UDC."

6 This was obviously because the unilateral undertaking is not intended to operate if planning permission is not granted. The words "planning permission by the UDC", i.e., the LPA, is referred to but, of course, as it had gone on appeal, strictly speaking, at least as far as the Inspector was concerned, it could not then be said to be granted by the local authority because it had refused it. Rather, it would be granted by the Inspector and, therefore, the condition would not strictly apply and. Therefore, there was a question as to the enforcement of the undertaking.

7 This, in fact, seems to have been the sole point which concerned the Inspector on enforceability; at least, it is the only one which is mentioned, because she said it was most notable and then:

"For this reason, I am not satisfied that the submitted UU would be capable of taking effect and securing the intended obligations. As such, I cannot afford weight to the obligations which it contains."

8 What is clear, therefore, and I do not need to go into the detail of it and it is not a point which is challenged by the defendant here, is that but for the lack of enforceability of the undertaking, and thus the commitment to ensure that there were self-build and custom houses, the planning

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factors which the Inspector then set out in the subsequent paragraphs, would have fallen clearly in favour of the grant of permission. It was, in short, or it is certainly highly arguable, that the Inspector was what I would, I am afraid, describe as a highly technical defect.

- 9 I am told that the local authority, whose Planning Committee refused permission (although its Planning Officer recommended it), did not take any enforceability point when it came before it, which is hardly surprising because if the local authority had granted the planning permission Condition 5 would have been satisfied. But at the appeal, the local authority did not take a point on enforceability either and, in particular, did not take a point that Condition 5 meant that the undertaking was not enforceable.
- 10 It is, therefore, fair or arguably fair, to characterise what the Inspector did in rejecting the undertaking as being pursuant to a new point that had not been canvassed before and it derived from the Inspector's own interpretation – which I suspect might not have been the interpretation offered by others but that is a different matter – of Condition 5.
- 11 In the light of that, the two grounds are as follows: first of all, Ground 1. This is to the effect that this was not only a new point but, secondly, there was a perfectly obvious answer to it, which is that the Inspector could and should have made a condition to the same effect as the core part of the undertaking, which was to create and guarantee self-build and custom houses. Generally speaking, of course, as is clear from cases like *Top Deck*, the Inspector has no obligation to cast around for conditions which might have the effect of resolving a substantive defect in the underlying application. The general duty is on the applicant to canvass and proffer solutions to problems which might arise. Therefore, *Top Deck* says that if a party wants the appeal to be considered on the basis that some condition can support the planning permission sought, it was incumbent on the appellant to deal with that condition at the enquiry. As a matter of substance, one can understand that.
- 12 Mr Bowes reminds me that in the case of *Gladman*, Lindblom LJ said that the basic proposition there – and it is a proposition for which the case, as a whole, stands as authority – is that there is no legal obligation on an inspector to formulate conditions that might make the proposed development acceptable but where none of the parties suggested it. He goes on to say, and this is accepted:

“... it might be unreasonable, in the "Wednesbury" sense, for an inspector not to impose a condition even though none of the parties has suggested it, because the need for that condition and the appropriateness of imposing it are perfectly obvious.”
- 13 It is quite right Lindblom LJ did not do it in that case and there are not any reported cases, I think, of an imposition of a condition which is obvious but this is, as I said, a very unusual case. This is not about substance. This is a highly technical defect and, in my judgment, it is arguable that there was a perfectly obvious solution to it and that the Inspector acted irrationally in not taking it.
- 14 There is no suggestion by the defendant that this is a condition which could not, as a matter of law, be imposed. I note the references to *DBS* and the fundamental distinctions between s.106 obligations and planning conditions. I do not regard that as particularly relevant for present purposes because this is a question where the substance had already been proffered and where there had been no objection to the enforceability of the undertaking but rather the main debate was about the balance between the planning harms and the benefits.

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- 15 I also bear in mind, of course, that this is in the context of a written representations procedure but that would not make any difference if there was the straight obligation to impose the planning condition. If there was, for the purpose of the planning condition, the need to go back to the parties, which under normal circumstances there would be, then it could be said that this is at least inimical to the whole concept of the written representations procedures and it would open the floodgates to endless back and forth between the inspector. That seems to me to be unrealistic, with respect, or at least arguably so here. This is a one-shot point. It would have required one letter and one letter back, which would either say, "We agree to the condition" or the alternative, of course, would be to just veto the undertaking. But either way, I consider that the first ground is arguable.
- 16 So far as the second ground is concerned, even if it was not arguably irrational for the Inspector not to have offered a revised condition, not to do it, the alternative was to go back to the parties and say, "I have discovered this technical defect." Then it could be addressed briefly by the parties. The Inspector, in my judgment, was acting arguably irrationally and arguably unfairly by not doing so, because, as I indicated, that was the objection which, in fact, ended up being fatal to the entire planning application.
- 17 This is not a case of imposing upon an inspector, particularly in a written representations context, some obligation to give continuous updates on their provisional thinking. It is not a case about that at all. It is not a case about trying to fix a substantive problem which the claimant ought to have appreciated, or at least arguably not so. This is a case where there is a highly technical defect. There was no question about the underlying commitment to provide the relevant housing and it was a point which was new and, in this context, despite what Mr Bowes has persuasively argued, I do consider it is at least arguable. It is a new issue here. It is a technical issue. It is not the broad question of being able and prepared to make your representations and file evidence on every conceivable aspect of the substance and to put in fallback positions in case your primary condition does not find favour with the inspector.
- 18 I do not consider, at least arguably, it is like a litigant in person who has got no idea as to what has been coming and what has been going on. I think arguably there was reason why the applicant did not and need not have construed the fact that someone might have taken the view that Condition 5 meant that the undertaking was now not put in the current form before the Inspector, rather than before the local planning authority. The most that might be said is that that was something that the solicitors should have picked up. It is not a question of catering for it but it is a technical point that should have been picked up. No doubt that is an argument which can be made at the substantive hearing but it is not a matter which is fatal so far as the grant of permission is concerned.
- 19 Again, finally, I do not accept that this view is not arguably correct because of some "floodgates" argument. There is very little flooding which is likely to occur, in my judgment, if it turns out at the end of the day the Inspector's approach to this technical defect result in her order being quashed.



APPENDIX 2- PLANNING COMMITTEE  
MINUTES -8 Feb 2023

Minutes:

The Principal Planning Officer presented an application for full planning permission for the erection of 30 new self-build and custom built dwellings.

He recommended that the Director of Planning be authorised to grant planning permission for the development subject to those items set out in section 17 of the report.

In response to questions from Members, officers: Said that the calculation had not yet been completed for a contribution in lieu of affordable housing; this would be an independent assessment that had to be agreed by the applicant and the Council's Housing Enabling Officer. It would not be negotiable.

Said that no changes had been made in terms of design but that the significant change was the financial contribution to be made in lieu of affordable housing.

With reference to the buffer zone and boundaries, said that proposed details would have to be submitted for each plot given the nature of the scheme.

Said that the current land supply figure was 4.89 years but there was a need to go beyond 5 years to ensure a buffer was in place.

The applicant was allowed to speak to clarify garden sizes and footpath issues.

Members discussed:

How the affordable housing contribution was to be determined and the need for Members to be aware of a possible sum. It was again stated that the Housing Enabling Officer would have to agree this and that the figure was being independently assessed and would be part of the S106.

The possible intrusion into the countryside as urban sprawl.

The Head of Development Management and Enforcement said that this matter had already been to appeal and that the only outstanding issue was the S106 agreement. Everything else had been considered previously.

Councillor Loughlin said that she could see no planning reason to refuse the application and proposed approval in line with the recommendations as stated. This was seconded by Councillor Pavitt.

RESOLVED that the Director of Planning be authorised to grant planning permission for the development subject to those items set out in section 17 of the report

APPENDIX 2- PLANNING COMMITTEE  
REPORT – UTT/22/2035/FUL



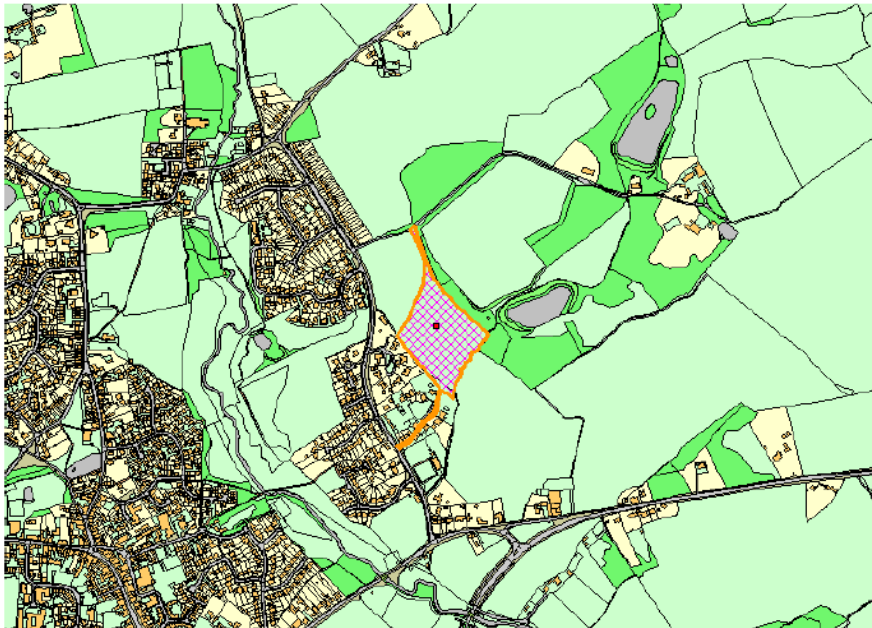
**ITEM NUMBER:** 9

**PLANNING COMMITTEE DATE:** 8 February 2023

**REFERENCE NUMBER:** UTT/22/2035/FUL

**LOCATION:** Land East Of St Edmunds Lane North Of Tower View Drive, St Edmunds Lane, Dunmow

**SITE LOCATION PLAN:**



**PROPOSAL:** Erection of 30 no. self-build and custom dwellings.

**APPLICANT:** Mr Rupert Kirby

**AGENT:** Miss Hannah Wallis

**EXPIRY DATE:** 24 October 2022

**EOT Expiry Date**

**CASE OFFICER:** Laurence Ackrill

**NOTATION:** Outside Development Limits (ULP) / Outside Town Development Area (GDNP), Ancient Woodland & within 100m of County Wildlife Site.

**REASON THIS APPLICATION IS ON THE AGENDA:** Major planning application.

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1.

## **EXECUTIVE SUMMARY**

1.1

Full planning permission is sought for the erection of 30 no. new self-build and custom dwellings.

1.2

The application site lies outside the defined settlement boundary limits and is thereby located within the countryside as designated by Policy S7 of the Adopted Local Plan and is also located outside the development housing growth 'Town Development Area', as designated by the Great Dunmow Neighbourhood Plan.

1.3

As the proposals cannot be tested against a fully up-to-date Development Plan, and the Council is currently unable to demonstrate a 5-year housing land supply (although its position is improving), paragraph 11 of the National Planning Policy Framework (NPPF) is engaged. As such, a detailed "Planning Balance" has been undertaken of the proposals against all relevant considerations.

1.4

The proposals would boost the Councils self-build housing supply, in which there is an identified need and the provision of an off-site affordable housing financial contribution. Furthermore, weight has been given in respect to introduction of a new footpath linking the proposed houses to

the network of public footpaths to the north, improvements to transport infrastructure and on-site energy generation from low-carbon sources. The proposed development would provide social and economic benefits in terms of the construction of the dwellings and the investment into the local economy. Thus, taken together, significant weight to the benefits of the development have been considered.

1.5

Therefore, and taken together, weight to the minor adverse impacts have been considered in respect of the proposed development and the conflict with development plan policies. However, it is considered that the benefits of granting planning permission would significantly and demonstrably outweigh the identified adverse impacts of the proposed development.

2.

## **RECOMMENDATION**

2.1

That the Director of Planning be authorised to GRANT planning permission for the development subject to those items set out in section 17 of this report –

A)

Completion of a s106 Obligation Agreement in accordance with the Heads of Terms as set out

B)

Conditions

And

If the freehold owner shall fail to enter into such an agreement, the Director of Planning shall be authorised to REFUSE permission following the expiration of a 6-month period from the date of Planning Committee.

2.2

In the event that members choose to make a decision contrary to the officer recommendation (which is that the proposed development accords with the development plan overall), it will be necessary to consider the presumption in favour of sustainable development in the NPPF. This is because the Council's delivery of housing over the last three years is substantially below its housing target and so paragraph 11(d) of the NPPF is engaged by virtue of footnote 7 of the NPPF. Members must state their reasons including why it is considered that the presumption is not engaged.

2.3

That, in the absence of the agreement referred to in resolution (2.1) above being completed within the time period provided for in resolution (2.2) above, the planning permission be refused for the following reasons:

1.

The proposed development fails to deliver appropriate infrastructure in order to mitigate any impacts and support its delivery. The proposal is therefore considered contrary to the implementation of Policies GEN6 - Infrastructure Provision to Support Development, Policy H9 - Affordable Housing of the Adopted Uttlesford Local Plan 2005 and the National Planning Policy Framework 2021.

3.

### **SITE LOCATION AND DESCRIPTION:**

3.1

The application site is located on the east side of St Edmunds Lane and comprises an irregular shaped sloping parcel of agricultural land consisting of 3 ha. The site lies to the north east of the first phase of development by the applicant, which benefits from planning permission for the erection of 22 custom/ self-build dwellings.

(UTT/19/1508/FUL)

3.2

A public footpath lies to the north of the application site. Tower View Drive, a group of 2-storey dwellings is found to the south west of the application site. Further, Tower House, a Grade II listed former Windmill is situated to the west of the application site. The site is bound to the east by the Wood at Merks Hall, which is a County Wildlife Site and a stream to the south.

3.3

The site is not located within or adjacent to any conservation areas and there are no listed structures on the site. However, adjacent to and northwest of the site is the Grade II listed building, Tower House, an early eighteenth-century windmill, and house, of red brick with a domed cap. The site is located outside development limits and also outside the housing growth Town Development Area, as designated by the Great Dunmow Neighbourhood Plan.

### **4. PROPOSAL**

4.1

Full planning permission is sought for the erection of 30 no. self-build and custom dwellings.

4.2

Access to the site would be through the adjoining 'Phase 1' residential development to the southwest of the site, that is currently under construction, through an extended estate road.

4.3

The developed part of the site would have a net area of approximately 3 hectares, with a density of approximately 10 dwellings per hectare.

4.4

The site would feature the creation of a public walkway from the development across the open land to the rear of the site, to link into the public footpath to the north, with a

100m2 LAP (Local Area for Play) would running alongside the north-eastern boundary of the site with a landscaped perimeter edge.

5.

## **ENVIRONMENTAL IMPACT ASSESSMENT ( EIA)**

5.1

The proposal amounts to “Schedule 2” development (10. Infrastructure Projects - (b) Urban development projects...) for the purposes of the Town and Country Planning (Environmental Impact Regulations) 2017. However, as the development proposal by reason of its nature, size or location (i) does not exceed 1 hectare of urban development which is not dwelling-house development; (ii) does not exceed 150 dwellings and (iii)

the overall area of the development does not exceed 5 hectares, the proposal is not EIA development, and an environmental assessment is not required to assess the environmental impacts of the development.

6.

## **RELEVANT SITE HISTORY**

6.1

UTT/20/1744/FUL - Proposed 30 no. Self-build and custom dwellings - Land East Of St Edmunds Lane North Of Tower View Drive St Edmunds Lane Dunmow – Refused – 11/06/2021 - Appeal Ref: APP/C1570/W/21/3282098 – 28/11/2022.

Adjoining Sites

6.2

UTT/14/0472/OP - Outline application with all matters reserved for the development of land for the provision of 22 custom / self-build dwellings with associated access, parking provision and amenity space. - Land East Of St Edmunds Lane Great Dunmow Essex – Refused – 23/05/2014 - Appeal Ref: APP/C1570/A/14/2223280 – Appeal Allowed – 15/05/2015.

UTT/17/3623/DFO - Details following outline application UTT/14/0472/OP (allowed on appeal under reference APP/C1570/A/14/2223280) for the construction of 22 no. custom/ self-build dwellings. Details of access, appearance, landscaping, layout and scale - Land East of St Edmunds Lane Dunmow – Approve with Conditions – 11/05/2018.

UTT/19/1508/FUL - Construction of 22 Custom/ Self Build Dwellings (Revised Schemes to UTT/17/3623/DFO) - Land East of St Edmunds Lane Dunmow - Approve with Conditions – 25/06/2020.

7.

## **PREAPPLICATION ADVICE AND/OR COMMUNITY CONSULTATION**

7.1

The Localism Act requires pre-application consultation on certain types of planning applications made in England. No pre-application consultation has been carried out prior to the current application. However, extensive discussions with the Council and community took place as part of the previous application that was recently dismissed

at appeal. As such the following consultation events have been held by the applicants:

- Public exhibition held on 10/09/2019.
- Notice of exhibition advertised 2 weeks prior in local newspapers and online.
- Pre-application meetings with Uttlesford District Council on 25/01/2019 & 22/10/2019.
- Pre-application meeting with Great Dunmow Town Council – 04/06/2019.
- Online meeting with members of the Town Council – 20/05/2020.

7.2

Full details of the applicant's engagement and consultation exercises conducted is discussed within Section 5 the supporting Planning Statement.

8.

## **SUMMARY OF STATUTORY CONSULTEE RESPONSES**

8.1

Highway Authority – No Objection.

8.1.1

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority (subject to conditions and S106 agreement).

8.2

Local Flood Authority – No Objection.

8.2.1

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission, subject to conditions.

9.Great Dunmow Town Council Comments - Object

9.1

Raise objection in accordance with previous comments submitted. These included the following:

- Harm to the setting of a listed building
- Harm to the character of the countryside
- Contemporary design is not supported
- There is a lack of cycleways in the area
- A financial contribution should be sought for foot/cycle paths.
- A financial contribution to a new swimming pool on the proposed new secondary school site East of Buttleys Lane.

10.

## **CONSULTEE RESPONSES**

10.1

UDC Housing Enabling Officer – No Objection.

10.1.1

The applicant has stated that without prejudice they are willing to agree to an off-site contribution in lieu of the 8 Affordable Rental Properties secured via a legal agreement given the exemption of paragraph 65 of the NPPF in relation to home ownership. Normally, on-site affordable provision is required but given that this is a custom/self-build site an off-site contribution in lieu of the 8 Affordable Rented Properties is acceptable.

10.2

UDC Environmental Health – No Objection.

10.2.1

This service has reviewed the details supplied to support this application and has no objection in principle.

10.3

UDC Landscape Officer/Arborist

10.3.1

No comments received.

10.4

ECC Historic Buildings and Conservation

10.4.1

The proposals would fail to preserve the special interest of the listed building, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. With regards to the NPPF this harm would be less than substantial, Paragraph 202 being relevant. I suggest that this harm is towards the low end of the spectrum. I also consider this application to be contrary to Paragraph 206.

10.5

ECC Infrastructure – No Objection.

10.5.1

A development of this size can be expected to generate the need for the financial contribution to mitigate the need for education places based on 30 dwellings for the following:

- Early Years Education: (Financial contribution of £TBC).
- Primary Education: (Financial contribution of £TBC).
- Secondary Education: (Financial contribution of £TBC).

10.6

Place Services (Ecology) – No Objection

10.6.1

No objection subject to securing biodiversity mitigation and enhancement measures.

10.7



NHS – No comments.

10.7.1

The Clinical Commissioning Group only respond to planning applications of 50 or more dwellings so would not be commenting on the site in this instance.

10.8

Aerodrome Safeguarding – No Objection.

10.8.1

No aerodrome safeguarding objections to the proposal subject to conditions.

10.9

Anglian Water – No Objection.

10.9.1

Anglian Water have no objection to this application subject to planning conditions.

10.10

Affinity Water – No Objection.

10.10.1

The construction works and operation of the proposed development site should be done in accordance with the relevant British Standards and Best Management Practices.

11.

## **REPRESENTATIONS**

11.1

The application was publicised by sending letters to adjoining and adjacent occupiers, displaying a site notice and advertising it within the local newspaper. The following issues were raised in representations that

are material to the determination of the application and are addressed in the next section of this report.

- 

200 Neighbouring properties sent letters.

- 

Site Notice erected close to the site.

- 

Press Notice published.

- 

8 Comments of objection received.

11.2

Summary of Objections

- Overdevelopment of Dunmow

- Increase in demand for energy and carbon issues
- Impact on green belt land (Officer comment: the application site is not designated as green belt land.
- Impact on privacy
- Impact on wildlife
- Noise pollution
- Impact on mental health
- Concerns regarding access and traffic
- Impact on drainage
- Degrade of woodland
- Impact on the countryside character
- Impact on listed buildings
- Out of keeping with the area
- Lack of infrastructure, including water pressure

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:

(aza) 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 or, fails to preserve or enhance the character and appearance of the Conservation Area.

12.4

The Development Plan

12.5

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 and 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 December 2022)

13.

POLICY

13.1

National Policies

13.2

National Planning Policy Framework (2021) (NPPF)

13.3

Uttlesford District Plan 2005

S7 – The Countryside

S8 – The Countryside Protection Zone

GEN1 – Access

GEN2 – Design

GEN3 – Flood Protection

GEN4 – Good Neighbourliness

GEN5 – Light Pollution

GEN6 – Infrastructure Provision

GEN7 – Nature Conservation

GEN8 – Vehicle Parking Standards

ENV2 – Development Affecting Listed Buildings

ENV3 – Open Spaces and Trees

ENV4 – Ancient monuments and Sites of Archaeological Importance Policy

ENV5 – Protection of Agricultural Land

ENV7 – Protection of the Natural Environment  
ENV8 – Other Landscape Elements of Importance  
ENV10 – Noise Sensitive Developments  
ENV12 – Groundwater Protection  
ENV14 – Contaminated Land  
H1 – Housing development  
H9 – Affordable Housing  
H10 – Housing Mix

#### 13.4

Great Dunmow Neighbourhood Plan  
Policy DS1: TDA: Town development Limits  
Policy DS8: Building for Life  
Policy DS9: Hedgerows  
Policy DS10: Eaves Height  
Policy DS11: Rendering, Pargeting and Roofing  
Policy DS12: Integration of Affordable Housing  
Policy DS13: Local Housing Needs  
Policy LSC1: Landscape, Setting and Character  
Policy GA-A: Public Transport  
Policy GA2: Integrating Developments (Paths and Ways)  
Policy GA3: Public Transport  
Position: HEI-A: Infrastructure Delivery  
Policy NE1: Identified Woodland Sites  
Policy NE2: Wildlife Corridors  
Policy NE3: Street Trees on Development Sites  
Policy NE4: Screening  
Policy S0S3: Children's Play Space

#### 13.5

Supplementary Planning Document or Guidance  
Uttlesford Local Residential Parking Standards (2013)  
Essex County Council Parking Standards (2009)  
Supplementary Planning Document- Accessible homes and play space homes Essex Design Guide

## Uttlesford Interim Climate Change Policy (2021)

14.

### CONSIDERATIONS AND ASSESSMENT

14.1

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

14.2

- A) Background
- B) Principle of Development
- C) Countryside Impact
- D) Design & Neighbouring Amenity
- E) Heritage impacts and Archaeology
- F) Affordable Housing Mix and Tenure
- G) Access and Parking
- H) Nature Conservation & Trees
- I) Climate Change
- J) Contamination
- K) Flooding
- L) Air Quality
- M) Planning Obligations

14.3

A) Background

14.3.1

This application follows on from a previous application under reference UTT/20/1744/FUL, determined in 2021. That proposal involved a full application for 30 no. Self-build and custom dwellings. The application was refused permission on the following grounds:

1.

The proposed development by reason of the site's location lying outside development limits within the countryside, would be harmful to the particular character of the countryside in which the site is set. As such, the development would be contrary to the adopted Uttlesford Local Plan Policy S7 of the Uttlesford Local Plan (adopted 2005,) and Policy DS1:TDA, LSC1 of the adopted Great Dunmow Neighbourhood Plan 2016, whereby the adverse environmental effects arising from this rural harm and loss of openness would significantly and demonstrably outweigh any identified benefits of the submitted scheme, when assessed against the guidance contained in the National Planning Policy Framework (February 2019) when taken as a whole.

2.

The setting of the Grade II listed building at Tower House will be affected by the development, as the existing site positively contributes to its setting and significance through being undeveloped land which preserves its sense of tranquillity and isolation. In particular, the proposed will further separate the listed building from its agrarian context, undermining its significance. Visually the proposed will be intrusive and other factors such as light pollution, noise pollution and general disturbance must be taken into consideration. The proposed would present the harmful sprawl and urbanisation of the site resulting in several impacts to the designated heritage asset, especially considering the diurnal, environmental and seasonal changes. The proposed development would therefore adversely alter the experience, understanding and appreciation of the listed building. The harm to the designated heritage asset is considered to be 'less than substantial', Paragraph 196 of the National Planning Policy Framework (2019) is therefore relevant. Considering the topography of the site, and the impact mentioned above, the 'less than substantial harm' to lies towards the lower half of the scale of harm. Accordingly, the proposal is contrary to the implementation of Policy ENV2 of the adopted Uttlesford Local Plan 2005.

3.

The proposed development fails to deliver appropriate infrastructure in order to mitigate any impacts and support the delivery of the proposed development. The proposal is therefore considered contrary to the implementation of Policies GEN6 – Infrastructure Provision to Support Development, of the Adopted Uttlesford Local Plan 2005, and the National Planning Policy Framework 2019.

14.3.2

The proposal was subsequently dismissed at appeal, with the Inspector concluding that in ‘the absence of a mechanism to secure the custom and self-build homes, or an affordable housing contribution, presents conflict with the Framework, particularly at paragraph 65 where it requires a minimum contribution to affordable housing as part of its objective to deliver a supply of homes for varying groups in the community.’ As such, ‘the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.’

14.3.3

In order to overcome the concerns in respect of this refused / dismissed scheme the applicant has confirmed to agree to an off-site contribution in lieu of 8 Affordable Rental Properties secured via a legal agreement. As such, the scheme is materially different to that of the previous proposal. In addition, a unilateral undertaking would be signed to secure the entirety of the development for custom and self-build homes. As such, the scheme is materially different to that of the previous proposal.

14.4

B) Principle of development

Housing Delivery

14.4.1

The 2021 National Planning Policy Framework (NPPF) establishes the overarching principles of the planning system, including the requirement of the system to “drive

and support development” through the local development plan process. It advocates policy that seeks to significantly boost the supply of housing and requires local planning authorities to ensure their Local Plan meets the full, objectively assessed housing needs for market and affordable housing.

#### 14.4.2

Policy DS13 – Local Housing Needs of the Great Dunmow Neighbourhood Plan highlights that residential development proposals shall be supported which meet the need for a housing mix including a significant proportion of one and two bedroom including bungalows which accommodate the needs of the elderly.

#### 14.4.3

The NPPF highlights that under section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and custom-build properties could provide market or affordable housing.

#### 14.4.4

The most recent self-build register shows there is a demand/need for self-build within the Uttlesford District of 242 entries, with 45% of entrants registering a preference for a 4 bedroom dwelling and only 0.4% of entrants registering a preference for a 1 bedroom dwelling.

#### 14.4.5

The proposed scheme would facilitate the construction of self build & custom residential units in a location close to public transport and local facilities. Whilst the proposal would not include affordable housing on-site, the applicant has committed to providing an off-site contribution, as discussed in more detail under Section F of this report. The proposal would be in line with the overarching objectives of adopted policy in delivering additional housing in the district, subject to consideration of all other relevant policies of the development plan, as discussed below.

### Development Limits

#### 14.4.6

Paragraph 78 of the NPPF states that in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs and consider whether allowing some market housing on these sites would help to facilitate this.

#### 14.4.7

The application site is located outside of the development limits and in the countryside. Uttlesford Local Plan policy S7 specifies that the countryside will be protected for its own sake and planning permission will only be given for development that needs to take place there or is appropriate to a rural area. Development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there.

#### 14.4.8

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.

#### 14.4.9

A review of policy S7 for its compatibility with the NPPF has concluded that it is partially compatible but has a more protective rather than positive approach towards development in rural areas and therefore should be given limited weight. Nevertheless, it is still a saved local plan policy and carries some weight. It is not considered that the development would meet the requirements of Policy S7 of the Local Plan and that, consequently the proposal is contrary to that policy.

#### 14.4.10

The Planning Inspector as part of the previously dismissed appeal at the site considered that 'the proposed development would inevitably entail a reduction in the openness of the appeal site and some encroachment of the settlement into the surrounding countryside. Despite this, the appeal site would form one of a cluster of developments set around both sides of St Edmunds Lane which together form a more gradual transition between the settlement and the countryside. Together with the recently approved development to the south, the appeal scheme would effectively infill and

round-off the edge of the settlement. This limits its visual impacts and the development would not represent a significant encroachment into the countryside when viewed in combination with those other developments.' Given that the proposal has not been altered, nor the site circumstances changed significantly from that of the dismissed appeal, no further concerns are raised in relation to the development and how this would accord with Policy S7.

#### Loss of Agricultural Land

#### 14.4.11

Paragraph 174(b) of the Framework states "Planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystems services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland'.

#### 14.4.12

Annex 2 of The Framework defines "best and most versatile land" as land in grades 1, 2 and 3a of the Agricultural Land Classification".

#### 14.4.13

Local Plan policy ENV5 (Protection of Agricultural Land) states that development of the best and most versatile (BMV) agricultural land will only be permitted where opportunities have been assessed for accommodating development on previously developed sites or within existing development limits. It further states that where development of agricultural land is required, developers should seek to use areas of poorer quality except where other sustainability considerations suggest otherwise.



#### 14.4.14

The policy is broadly consistent with the Framework which notes in paragraph 174(b) that planning decisions should recognise the economic and other benefits of BMV agricultural land, whilst the footnote to paragraph 174 states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. However, the Framework does not require development proposals to have undertaken an assessment of alternative sites, as this policy implies, and in this regard the policy is not fully consistent with the Framework and should therefore be given reduced weight.

#### 14.4.15

Most of the agricultural land within Uttlesford District is classified as best and most versatile land. The Council accepts that it is inevitable that future development will probably have to use such land as the supply of brownfield land within the district is very restricted. Virtually all the agricultural land within the district is classified as Grade 2 or 3 with some areas of Grade 1.

#### 14.4.16

No assessment of alternative sites of a poorer quality of agricultural category have been undertaken, as such there would be some conflict with Policy ENV5. However, the loss of BMV land as part of the

application, at 3 ha, would be relatively small and such a loss can only be afforded very limited weight in relation to the conflict with this policy. As such the loss of agricultural land in this location is not considered to give rise to significant conflict with policy ENV5 or paragraph 174b of the Framework.

### **Great Dunmow Neighbourhood Plan**

#### 14.4.17

The site is located outside the 'Town Development Area' as designated by Policy DS1:TDA of the Great Dunmow Neighbourhood Plan. The purpose of which is to direct future housing growth, protect the rural setting of Great Dunmow and contain the spread of the town by promoting infill within existing built up-areas.

#### 14.4.18

Paragraph 14 of the NPPF advises that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, any 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)

d) the local planning authority's housing delivery was at least 45% of that required over the previous three years.

14.4.19

The Great Dunmow Neighbourhood Plan is a material consideration, however, as the Neighbourhood Plan is now more than two years old and as such the added protection of Paragraph 14 would not apply in respect to applications involving the provision of housing. It is therefore necessary to assess whether the application proposal is sustainable development.

14.4.20

The Planning Inspector as part of the previous appeal decision concluded that 'the proposal would not cause harm to the character and appearance of the area. While there would be some encroachment of the settlement into the countryside, given the site's location this impact would be limited. Consequently, the proposal would not conflict with the aims of Policy S7 of the ULP or Policy DS1 of the DNP insofar as they relate to protection of the town's rural setting and the character of the countryside.' Given that the scheme has not been altered significantly since the previous appeal decision, no further concerns are raised in relation to the proposal regarding conflict with Policy S7 or DS1 and therefore the previous reason for refusal in relation to this cannot be sustained.

### **Suitability and Location**

14.4.21

Paragraph 79 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. New homes create additional population, and rural populations support rural services and facilities through spending.

14.4.22

Great Dunmow is identified within the Local Plan settlement hierarchy as being "the focal point of the south-eastern part of the District and the second largest settlement in Uttlesford." Where there is a town centre with a number of services and facilities.

14.4.23

Although outside the 'development limits' of Great Dunmow as designated by the Local Plan and the 'Town Development Area' of the Neighbourhood Plan, it is noted as part of a previous appeal for the adjacent site in relation to application reference UTT/14/0472/OP, the Planning Inspector considered that 'given its close proximity to the town centre, along with the location of bus stops providing public transport to Stansted Airport, Braintree and Colchester, local services would be accessible to future occupiers of the proposed dwellings.' Given the applications site lies just beyond the aforementioned development site, towards the western edge of the settlement, it would therefore not be unreasonable in respect to its location when

taking into account the sites proximity to local services and facilities and therefore considered to be an accessible and sustainable location.

### **Policy Position**

#### 14.4.24

The Council is currently unable to demonstrate a 5YHLS supply and therefore paragraph 11 is fully engaged along with the "tilted balance" in favour of the proposals.

#### 14.4.25

Paragraph 11 requires the decision maker to grant planning permission unless having undertaken a balancing exercise there are (a) adverse impacts and (b) such impacts would 'significantly and demonstrably' outweigh the benefits of the proposal.

#### 14.4.26

The "Planning Balance" is undertaken further below, but before doing so we have undertaken a wider assessment of the proposal against all relevant considerations to determine if there are impacts, before moving to consider if these impacts are adverse and would 'significantly and demonstrably' outweigh the benefits of the proposal in the planning balance.

#### 14.4.27

However, taking into account the lack of 5YHLS, when reviewed against the aforementioned policies, the proposal is, on balance, considered to be acceptable in principle.

#### 14.5

### **B) Countryside Impact**

#### 14.5.1

A core principle of the NPPF is to recognise the intrinsic and beauty of the countryside. Paragraph 174 of the Framework further states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

#### 14.5.2

Landscape Character is defined as 'a distinct, recognisable and consistent pattern of elements in the landscape that makes one landscape different from another, rather than better or worse'. The landscape character is that which makes an area unique.

#### 14.5.3

Although not formally adopted as part of the Local Plan or forms a Supplementary Planning Document, the Council as part of the preparation of the previous local plan prepared a character assessment which provides the detailed 'profiles' of Landscape Character Areas within Uttlesford District, known as 'Landscape Characters of Uttlesford Council'.

#### 14.5.4

The application site lies within the character area known as the Upper Chelmer River Valley, which stretches from the southern edge of the historic town of Thaxted, southwards to the point at which the river meets the urban edge of Chelmsford.

#### 14.5.5

The area is characterised by gently undulating valley floor has an enclosed character and restricted views often framed by the many riverside and hedgerow trees, a string of small wet woodlands and the sloping valley sides. The assessment describes the key characteristics for the landscape area as being a narrow valley with dense riverside trees, arable valley sides with a fairly open character. Overall, this character area has a relatively high sensitivity to change.

#### 14.5.6

As noted by the Planning Inspectors comments in relation to the site as part of the previous appeal, the proposed development 'would not represent a significant encroachment into the countryside when viewed combination with those other developments.' 'Together with the strategy for landscaping on the site, the development would respect the character and appearance of those neighbouring developments and provide a suitable transition to the countryside beyond.'

#### 14.5.7

As noted above, given that the proposed scheme has not changed significantly from that of the previous application and that the Planning Inspector of the previous appeal considered the impact on this part of the site to be 'limited', no further concerns are raised in relation to the proposal regarding the visual impact and effect on the wider landscape character area.

### 14.6

#### **C) Design & Neighbouring Amenity**

##### Design

#### 14.6.1

In terms of design policy, good design is central to the objectives of both National and Local planning policies. The NPPF requires policies to plan positively for the achievement of high quality and inclusive design for the wider area and development schemes. Section 12 of the NPPF highlights that the Government attaches great importance to the design of the built development, adding at Paragraph 124 'The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve'. These criteria are reflected in policy GEN2 of the adopted Local Plan.

#### 14.6.2

Unlike a conventional detailed application, the finalised layout and scale of the proposed development cannot be considered at this stage. This is due to the various extension and garage options that are available for the proposed plots. These will be determined by the purchaser and, like external materials, it is proposed that these be controlled by condition for final details to be agreed prior to the commencement of work on each plot.

#### 14.6.3

In terms of design selection for the house types, the submitted Design Code and Plot Parameter Plan set the maximum dwelling width, depth, eaves height and ridge height as well as the materials pallet. This is intended to allow flexibility for the self-builder whilst providing the Council with certainty of what would be delivered. The

Design Code sets out, for example, the line of house frontages, depth of build zone, plot co-ordinates and maximum ridge and eaves heights. In terms of construction, the developer would promote the “Golden Brick” principle where the plot buyer would have the option of self-building the dwelling from slab level upwards or request that the dwelling is variously constructed to roof level or the third option being a “Turn-key” dwelling where the buyer simply chooses internal layout etc. The scheme adopts a modular approach to the various house types.

#### 14.6.4

The applicant is proposing a range of different house types for each plot, which are designed as single, two and two and a half storeys in height, in keeping with the scale of existing housing development locally and set within 3no. distinct character areas:

#### 14.6.5

Area 1: The layout of area 1 seeks to continue the theme set by Phase 1, with cottage style properties facing the main road. All the parking is provided behind or to the side of the properties to ensure that the parking of cars will not detract from the street scene. The intention being to create an attractive and varied street scene similar to the villages found in the surrounding area such as Newport, Thaxted, Great Bardfield & Finchingfield.

#### 14.6.6

Area 2: The side road has a semi-rural design theme with mixture of cottage and agricultural styled properties to either side of the road leading to a feature house and neighbouring barn style property at its end.

#### 14.6.7

Area 3: Sits in front of the woodland at Merks Hall and opposite the more traditional area 2. It is designed to create an area that appears like a modern addition to the settlement. The intention being to create a greater range of choice for self-builders. The design of the illustrative houses has been inspired by European woodland developments, that combine natural materials, such as native hardwoods with large, glazed areas to create highly energy efficient buildings.

### **Scale**

#### 14.6.8

The scale of the house types would comprise generally a mix of 1, 1½ and 2 storey dwellings across the development. The details would be fixed by various building parameters as part of a Design Code, submitted within the applicants Design & Access Statement. Front doors to each property would face the street, with parking spaces to the side / rear of buildings and there to be native hedge planting to front boundaries.

#### 14.6.9

The Inspector as part of the previous application appeal noted that the ‘exact location of the houses on the plots and the design of the houses, will vary, the proposal includes a detailed design code which would place restrictions on parameters including eaves and ridge heights, as well as building footprints, materials and boundary treatments.’ No concerns were raised the Inspector in relation to the

contents / parameters as set out by the design code and the details for the units within each plot would be subject to approval of details applications.

#### 14.6.10

Given the above, it is concluded that the proposed scale of the development would be generally consistent with the provisions of Policies GEN2 and GEN4 of the adopted Uttlesford Local Plan 2005, Policy DS10 of the Great Dunmow Neighbourhood Plan, and the Essex Design Guide.

### **Landscaping**

#### 14.6.11

Each plot has sufficient garden amenity space to serve the maximum size property which could be achieved for that plot given the extension/garage options. There would be sufficient separation distances between the proposed dwellings, whilst no overlooking or overshadowing issues would arise as a result of the development which would warrant refusal of the application.

#### 14.6.12

The proposal would also provide an area of public open space featuring a 100m<sup>2</sup> Local Area for Play (LAP) to the northern part of the site.

#### 14.6.13

A landscaping scheme and strategy have been submitted with the application. It is proposed to plant native species hedges between each plot, with specimen trees to create a semi-rural appearance. A tree belt is

also proposed around the LAP that will screen the development from the north and create a high-quality public open space. The existing vegetation to the south will be retained and enhanced. The proposed mix of planting is considered to be appropriate for this edge of settlement site and no objections are therefore raised under ULP Policy GEN2 and GDNP Policies DS9 and NE4.

### **Neighbouring Amenity**

#### 14.6.14

The NPPF requires a good standard of amenity for existing and future occupiers of land and buildings. Policies GEN2 and GEN4 of the Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.

#### 14.6.15

As noted above, the proposal would be up to 2 ½ storeys in scale. The proposed site would be located due east of closest neighbouring residential development, where there would be a soft-landscaped buffer between the sites that would adequately offset any potential adverse impacts in terms of daylight / sunlight or appearing overbearing or resulting in loss of outlook.

#### 14.6.16

In terms of noise disturbance from construction works, the construction phase of the site would be a temporary disturbance and an unavoidable aspect of new development. The Control of Pollution Act would provide protections in terms of hours

of work and preventing unreasonable noise disturbance being created to neighbouring occupiers.

14.6.17

Given the generous spacings between the proposed units within the development and to that of the closest neighbouring residential developments, the proposal would have an acceptable impact upon the residential amenity of neighbouring occupiers. As such, the proposal would comply with Policies GEN2 and GEN4 of the Local Plan.

14.7

## **D) Heritage impacts and Archaeology Impact on the setting of Listed Buildings**

14.7.1

Policy ENV 2 (Development affecting Listed Buildings) seeks to protect the historical significance, preserve and enhance the setting of heritage assets. The guidance contained within Section 16 of the NPPF, 'Conserving and enhancing the historic environment', relates to the historic environment, and developments which may have an effect upon it.

14.7.2

The site is not located within or adjacent to any conservation areas and there are no listed structures on the site. However, adjacent to and northwest of the site is the Grade II listed building, Tower House, an early eighteenth-century windmill and house, of red brick with a domed cap.

14.7.3

The ECC Place Services Conservation Officers have been consulted with as part of the application. They consider that the proposed development of thirty dwellings would result in several adverse impacts in line with Historic England's Setting of Heritage Assets (GPA Note 3) and would present cumulative harm to the setting and significance of the adjacent listed building, Tower House. The proposals will adversely alter the agrarian setting of the Tower House, particularly views from the north and east, and wider views from the south. Furthermore, other environmental factors such as noise, general disturbance and light spill must also be considered.

14.7.4

In their assessment, the proposals would fail to preserve the special interest of the listed building, this harm would be less than substantial, with this harm being towards the low end of the spectrum.

14.7.5

The Appeal Inspector as part of the previously dismissed appeal came to a similar conclusion in terms of the proposals effect on the setting of Tower House. They noted that 'the semi-rural setting contributes to the appreciation of, and therefore the significance of, this heritage asset.' 'The appeal scheme would impact upon the setting of the listed building.' However, 'the northern part of the field would remain undeveloped, and this would retain the main open area across which the listed building is viewed from the public footpath.'

14.7.6

The Inspector then goes on to surmise that 'due to the gradient of the land and the distance of the proposed development from the footpath, it would primarily be the roof slopes as well as parts of the first floor levels which would be apparent in those views. The landscaping buffer proposed to the northern side of the development would also provide screening to varying degrees. As a result, whilst the development would alter the sense of the listed building being set in a wider rural landscape, the development would not be dominant in those views nor visually detract or compete with it.'

#### 14.7.7

'The development may entail additional external lighting and a degree of light pollution, alongside general movements and noise associated with the use of residential properties. However, given the distance of the proposed development from the listed building, proximity of other residential uses, and clear separation by boundary treatments, these impacts on the setting of the listed building would not be harmful.'

#### 14.7.8

On the other hand, the Inspector did concede that 'the proposal would introduce a new footpath linking the proposed houses to the network of public footpaths to the north. By doing so, new public views of the listed building would be created. This would increase opportunities for the public to appreciate and experience the heritage asset across the open field, which is an important part of its setting and significance. This would be a significant public benefit.'

#### 14.7.9

In terms of the "tilted balance", as set out in Section B of the Report, paragraph 202 of the National Planning Policy Framework 2021 (NPPF)

advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

### **Archaeology**

#### 14.7.10

In terms of archaeology, policy ENV4 of the adopted local plan, the preservation of locally important archaeological remains will be sought unless the need for development outweighs the importance of the archaeology. It further highlights that in situations where there are grounds for believing that a site would be affected, applicants would be required to provide an archaeological field assessment to be carried out before a planning application can be determined, thus allowing, and enabling informed and reasonable planning decisions to be made.

#### 14.7.11

The ECC Archaeological Team have not commented on the application. However, it is noted that the Specialist Archaeological Adviser at Place Services, Essex County Council commented on the previous application and reported that the application site has the potential for surviving archaeological deposits and has recommended a series of pre-development conditions of archaeological investigation and reporting, which would be adequately secured by condition.



#### 14.7.12

As such, subject to the imposition of conditions relating to an Archaeological Programme of Trial Trenching followed by Open Area Excavation with a written scheme of investigation, the proposal would comply with policy ENV4 of the Local Plan.

#### 14.8

### **E) Affordable Housing Mix and Tenure**

#### **Affordable Housing**

##### 14.8.1

In accordance with Policy H9 of the Local Plan, the Council has adopted a housing strategy which sets out Council's approach to housing provisions. The Council commissioned a Strategic Housing Market Assessment (SHMA) which identified the need for affordable housing market type and tenure across the district. Section 5 of the Framework requires that developments deliver a wide choice of high-quality homes, including affordable homes, widen opportunities for home ownership and create sustainable, inclusive, and mixed communities.

##### 14.8.2

The delivery of affordable housing is one of the Councils' corporate priorities and will be negotiated on all sites for housing. The Councils policy requires 40% on all schemes over 0.5 ha or 15 or more properties.

##### 14.8.3

Paragraph 65 of the Framework which sets out that planning decisions should expect at least 10% of the total number of homes to be available for affordable home ownership. An exemption to this provision is given where the proposal is to be developed by people who wish to build or

commission their own homes. The footnote states that affordable home ownership is part of an overall affordable housing contribution, and that the exemption is made therefore in relation to this part. As such, the Framework is not intended to exempt self-build and custom build housing entirely from the requirement to provide affordable housing, only that it would not be required to provide affordable homes for ownership.

##### 14.8.4

The Inspector as part of the previously dismissed appeal noted that 'by comprising entirely self-build plots, the proposed development would have been exempt from making an affordable housing contribution under the provisions of paragraph 65 of the Framework. In the absence of a mechanism to ensure that the proposal conforms to the exceptions given in paragraph 65, and in the absence of any other affordable housing being secured, the development would not accord with the objectives of the Framework insofar as they relate to delivery of affordable housing. The absence of such a contribution to affordable housing therefore weighs against the development.'

##### 14.8.5

Given the above exemption the proposal would still be subject to the provision of affordable rented housing as per the requirements of Policy H9 of the Local Plan. Normally, on-site affordable provision is required. However, in consultation with the

Council's Housing Officer, given that the application relates to the construction of custom/self-build units, an off-site contribution in lieu of the 8 Affordable Rented Properties is considered to be acceptable. As such, the proposal would contribute to the creation of a mixed and balanced community in this area. This would represent a significant public benefit that would weigh in favour of the proposed development and would overcome the concerns raised by the Inspector as part of the dismissed appeal.

## **Housing Mix**

### 14.8.6

Policy H10 requires that developments of 3 or more dwellings should provide a significant proportion of small 2- and 3-bedroom market dwellings. However, since the policy was adopted, the Council in joint partnership with Braintree District Council have issued the 'Housing for New Communities in Uttlesford and Braintree (ARK Consultancy, June 2020)'.

### 14.8.7

The study recommends appropriate housing options and delivery approaches for the district. It identifies that the market housing need for 1 bed units is 11%, 2-bed units 50%, 3-bed units 35.6% and 4 or more bed units being 3.4%.

### 14.8.8

The accommodation mix would be subject to those on the self-build register who come forward to acquire the plots. However, as noted above there is a significant proportion of entrants on the register who are seeking to build 4 bedroom units (109 - 45%), with the 2nd highest being entrants registering a preference for a 3 bedroom dwelling (75 – 31%).

### 14.8.9

It is also the Councils' policy to require 5% of the whole scheme to be delivered as fully wheelchair accessible (building regulations, Part M, Category 3 homes). The Council's Housing Strategy 2021-26 also aims for 5% of all units to be bungalows delivered as 1- and 2-bedroom units.

### 14.8.10

The applicant has suggested the following indicative mix to accommodate for the needs of those on the self-build register as follows: 2 bed units at 23%, 3 bed units at 27%, 4 bed units at 43% and 5 bed units at 7%. This would be an appropriate mix, given the housing needs as required by entrants on the self-build register. As such, it is considered that the proposed off-site contribution to affordable housing and the overall mix and tenure of housing provided within this proposed development is acceptable and in accordance with policies H9 of the Local Plan & DS12 & DS13 of the Great Dunmow Neighbourhood Plan.

## 14.9

### **F) Access and Parking**

#### Access

#### 14.9.1

Policy GEN1 of the Local Plan requires developments to be designed so that they do not have unacceptable impacts upon the existing road network, that they must compromise road safety and take account of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired and also encourage movement by means other than a vehicle.

#### 14.9.2

The proposed development is served from the access arrangement and internal access road to be constructed under UTT/19/1508/FUL. Therefore, if this planning consent were to be implemented, the access arrangement, internal access road and associated footway with pedestrian crossing point of St Edmunds Lane must be constructed, prior to commencement of the development, to ensure safe and suitable access to the site is provided.

#### 14.9.3

The highway authority has advised that the most appropriate way to mitigate the impact of the development is through provision and improvement of sustainable transport connections and to this end a contribution to bus services has been requested as part of the proposal. As such, the highway authority does not consider the residual cumulative impact on the highway network to be severe and there would be a number of measures incorporated to promote active travel to and from the site, nor have any concerns been raised with regards to the proposals impact upon highway / pedestrian safety in this regard.

#### 14.9.4

Overall, the proposed development would have an acceptable impact upon highway safety and parking pressure within the locality of the site and therefore in accordance with the aforementioned policies, subject to conditions and a S106 agreement securing planning obligations.

#### 14.10

### **G) Nature Conservation & Trees**

#### **Nature Conservation**

##### 14.10.1

Policy GEN2 of the Local Plan applies a general requirement that development safeguards important environmental features in its setting whilst Policy GEN7 seeks to protect wildlife, particularly protected species and requires the potential impacts of the development to be mitigated.

##### 14.10.2

The application site itself is not subject of any statutory nature conservation designation being largely used for agriculture. However, the site is adjacent to a section of Ancient Woodland and is within 100m of Merks Hall County Wildlife Site.

##### 14.10.3

The site is also within the 10.4km evidenced Zone of Influence for recreational impacts at Hatfield Forest Site of Special Scientific Interest (SSSI)/National Nature Reserve (NNR). However, as this application is less than 50 units, as such, 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.

#### 14.10.4

Place Services ecologist have reviewed the supporting documentation submitted in support of the proposals in detail and have assessed the likely impacts on protected and priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

#### 14.10.5

Standing Advice issued by Natural England and The Forestry Commission recommends that a buffer zone of at least 15 metres from the boundary of the woodland should be provided in all cases. Whilst paragraph 180(c) of the NPPF makes clear that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy, the Council's ecology advice from Place Services raised no issues as regards impacts on Merks Hall Wood in respect of any resulting loss or deterioration.

#### 14.10.6

The proposed reasonable biodiversity enhancements including the installation of bird and bat boxes, Hedgehog refugia and Barn Owl box and the creation of ponds as well as the planting of native trees and hedgerows, which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021).

### **Trees**

#### 14.10.7

The proposed development would not result in the loss of any trees or hedgerows in order to facilitate the development. In addition, there would be extensive planting of street trees is proposed throughout the

development and also to soften the perimeter of the site and to reinforce existing areas of soft landscaping to the boundaries of the site. As mentioned above, a landscaping scheme and strategy have been submitted with the application. It is proposed to plant native species hedges between each plot, with specimen trees to create a semi-rural appearance. A tree belt is also proposed around the LAP that will screen the development from the north and create a high-quality public open space. The existing vegetation to the south will be retained and enhanced. The proposed mix of planting is considered to be appropriate for this edge of settlement site.

#### 14.10.8

Overall, it is considered that the proposal would not have any material detrimental impact in respect of protected species, subject to condition and s106 obligations accords with ULP policies GEN7 & ENV8 and DS9, NE2, NE3 & NE4 of the Great Dunmow Neighbourhood Plan.

#### 14.11

### **H) Climate Change**

#### 14.11.1

Policy GEN2 of the Local Plan seeks to ensure that the design of new development It helps to minimise water and energy consumption. Uttlesford Interim Climate Change Policy sets out a list of Policies of note a demonstration of how developments demonstrate the path towards carbon zero. The NPPF seeks to ensure that new development should avoid increased vulnerability arising from climate change. More so, developments should help to reduce greenhouse gas emissions.

#### 14.11.2

The applicant has not submitted an energy and sustainability statement. However, as part of the submitted Design & Access Statement the applicant has committed to sustainable construction methods and the use of renewable energy systems within the proposed housing. Timber frame construction would be used, using prefabricated 'renewable' timber frame manufactured within workshop environment which speeds up construction time and allows better levels of insulation. The dwellings would also make use of air source heat pumps and solar panels. Given the nature of the project the full extent of the sustainable measures would become clearer prior to the fit out of each unit. As such, a condition relating to the installation of sustainable energy measures is to be attached.

#### 14.11.3

Overall, the scheme would be consistent with the Councils Interim Climate Change policy and its Energy & Sustainability strategies are therefore supported, subject to conditions.

#### 14.12

### **I) Contamination**

#### 14.12.1

Policy ENV14 of the Local Plan states that any proposal on contaminated land needs to take proper account of the contamination. Mitigation measures, appropriate to the nature and scale of the proposed development will need to be agreed.

#### 14.12.2

The Council's Environmental Health Officer has been consulted on the application and notes that there is no reason to believe this site is contaminated and is not aware of any potentially contaminative past use, however, it is the developer's responsibility to ensure that final ground conditions are fit for the end use of the site. Therefore, a condition is to be attached to ensure that if any land contamination identified, the site shall be remediated to the satisfaction of the Local Planning Authority to ensure that the site is made suitable for its end use.

#### 14.12.3

Therefore, the application is considered acceptable in terms of its land contamination risks and in accordance with the aforementioned policies.

#### 14.13

### **J) Flooding**

#### 14.13.1

The NPPF states that inappropriate development in areas of high-risk flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

#### 14.13.2

The Environmental Agency's website and the Councils policy maps has identified the site is within a fluvial Flood Zone 1 where there is a minimal risk of flooding.

#### 14.13.3

New major development for housing need to include a flood risk assessment as part of their planning application, to ensure that the required form of agreed flood protection takes place. Additionally, all major developments are required to include sustainable drainage to ensure that the risk of flooding is not increased to those outside of the development and that the new development is future proofed to allow for increased instances of flooding expected to result from climate change.

#### 14.13.4

Essex County Council who are the lead local flooding authority who stipulate that having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, that they do not object to the granting of planning permission subject to imposing appropriately worded conditions.

#### 14.13.5

The proposals, for this reason is therefore considered to comply with policy GEN3 of the adopted Local Plan and the NPPF.

#### 14.14

### **K) Air Quality**

#### 14.14.1

The site is not located within a poor air quality zone and the Council's Environmental Health Officer has been consulted as part of the application and raises no objection to the proposed development in this regard. A condition relating to the installation of charging points for electric vehicles is requested and this is to be included.

#### 14.14.2

Given the above, the proposals would comply with Uttlesford Local Plan Policy ENV13.

#### 14.15

### **L) Planning Obligations**

#### 14.15.1

Paragraph 56 of the NPPF sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations. The following identifies those matter that the Council would seek to secure through a planning obligation, if it were proposing to grant it permission.

#### 14.15.2

- 

The provision of an appropriate contributions towards Early Years education facilities as agreed with the County Council. (Financial contribution of £TBC).

- 

The provision of an appropriate contributions towards Primary Education facilities as agreed with the County Council. (Financial contribution of £TBC).

- 

The provision of an appropriate contributions towards Secondary Education facilities as agreed with the County Council. (Financial contribution of £TBC).

- 

A financial contribution of £110,430 (index linked) towards to contribute to a bus strategy for Great Dunmow which will provide a regular service to the proposed development / along St. Edmunds Lane.

- 

Residential Travel Plan.

15

## **ADDITIONAL DUTIES**

15.1

Public Sector Equalities Duties

15.2

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.

15.3

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.

15.4

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

15.5

## **Human Rights**

15.6

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

## **Planning Balance and Conclusion**

16.1

With Uttlesford District Council unable to demonstrate a 5YHLS supply as a consequence paragraph 11d of the NPPF therefore applies which 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 there are (a) adverse impacts and (b) such impacts would 'significantly and demonstrably' outweigh the benefits of the proposal.

16.2

The amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker. Being out of date does not mean that a policy carries no weight. A review of Policy S7 concluded that this takes a more restrictive approach to development in the countryside compared to the NPPF which takes a more positive approach, and this could affect the delivery of housing. However, it is broadly consistent with the NPPF in terms of seeking to protect the character and appearance of the countryside and thereby carries limited weight.

16.3

In respect to addressing the benefits of the proposed development, the comments raised by the Planning Inspector as part of the dismissed appeal in relation to the site are a material consideration. The Inspector considered that 'the proposal would introduce a new footpath linking the proposed houses to the network of public footpaths to the north. By doing so, new public views of the listed building would be created. This would increase opportunities for the public to appreciate and experience the heritage asset across the open field, which is an important part of its setting and significance. This would be a significant public benefit.'

16.4

In addition to this, the proposed development would provide 30 new self-build homes in which Local Authorities are required to have regard to this and to give enough suitable development permissions to meet the identified demand. The proposal would also provide an off-site contribution in lieu of the 8 Affordable Rental Properties. These elements would also represent a significant public benefit.

16.5

The development would provide economic and social benefits in terms of the construction of the dwellings and supporting local services and amenities providing investment into the local economy.

16.6



In terms of the adverse impacts of development, the proposal would result in less than substantial harm to the significance of heritage assets, at the lower half of the scale.

16.7

The main turning point from the previous application in terms of the dismissed appeal relate to securing of an appropriate affordable housing contribution. Without this, as per the previous appeal, the proposal was considered to cause 'harm through a failure to provide a policy compliant affordable housing contribution. This would undermine the national objective to address the need for different types of housing and the ULP Policy H9 requirement for affordable housing. The effects of this lack of provision would be significant and long lasting and would be in direct conflict with the Framework.' This harm was ascribed substantial weight by the Inspector. However, given the proposal now includes an affordable housing contribution, the proposal would now be compliant and overcome the reason for the dismissed appeal.

16.8

Therefore, and taken together, weight to the minor adverse impacts have been considered in respect of development and the conflict with development plan policies. The benefits of granting planning permission would significantly and demonstrably outweigh the identified adverse impacts of development. In the circumstances, the proposal would represent sustainable development in accordance with the NPPF.

16.9

Overall, the proposals are in conformity with relevant local and national planning policies and the scheme results in a positive and sustainable form of development that is of planning merit.

16.10

It is therefore recommended that the application be approved subject to a S106 and suggested conditions.

17.

## **S106/ CONDITIONS**

17.1

### **S106 HEADS OF TERMS**

17.2

i.

Off-site financial contribution in lieu of the 8 Affordable Rental Properties.

ii.

Provision of 5% wheelchair accessible and adaptable dwellings (M4(3) – Building Regulations 2010.

iii.

Payment of education financial contributions; Early Years, Primary, Secondary and Libraries.

iv.

Provision and long-term on-going maintenance of public open space (including LAP).

v.

Financial contributions towards bus services.

vi.

Monitoring cost.

vii.

Payment of the council's reasonable legal costs.

17.3

Conditions

1

The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: In accordance with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2

The development hereby permitted shall be carried out in accordance with the approved plans as set out in the Schedule.

REASON: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment, in accordance with the Policies of the Uttlesford Local Plan (adopted 2005) as shown in the Schedule of Policies.

3

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

REASON: Paragraphs 163 and paragraph 170 of the National Planning Policy Framework state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution in accordance with ULP Policies GEN2 and GEN3 of the Uttlesford Local Plan (adopted 2005).

4

No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

REASON: The Historic Environment Record shows the proposed development lies in a potentially sensitive area of archaeological deposits, in accordance with Policy ENV4 of the adopted Uttlesford Local Plan 2005.

5

No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI.

REASON: The Historic Environment Record shows the proposed development lies in a potentially sensitive area of archaeological deposits, in accordance with Policy ENV4 of the adopted Uttlesford Local Plan 2005.

6

The applicant shall submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

REASON: The Historic Environment Record shows the proposed development lies in a potentially sensitive area of archaeological deposits, in accordance with Policy ENV4 of the adopted Uttlesford Local Plan 2005.

7

No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Plan shall be adhered to throughout the construction period and shall provide for the following all clear of the highway:

- i. Safe access into the site.
- ii. The parking of vehicles of site operatives and visitors.
- iii. Loading and unloading of plant and materials.
- iv. Storage of plant and materials used in constructing the development.
- v. Wheel and underbody washing facilities

REASON: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety, in accordance with ULP Policy GEN1 of the Uttlesford Local Plan (adopted 2005).

8

No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The statement shall specify the provisions to be made for the control of noise and dust emanating from the site and shall be consistent with the best practicable means as set out in the Uttlesford Code of Development Practice. The approved Statement shall be adhered to throughout the construction period.

REASON: In the interests of the amenity of surrounding locality residential/business premises in accordance with Policies

GEN1, GEN2, and GEN4 of the Uttlesford Local Plan (adopted 2005).

9

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of

the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

•

Verification of the suitability of infiltration of surface water for the development.

•

This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.

•

Limiting discharge rates to 7.2l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party. All relevant permissions to discharge from the site into any outfall should be demonstrated.

•

Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.

•

Final modelling and calculations for all areas of the drainage system. The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.

•

Detailed engineering drawings of each component of the drainage scheme.

•

A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.

•

A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to ensure the effective operation of SuDS features over the lifetime of the development and to provide mitigation of any environmental harm which may be caused to the local water environment in

accordance with the NPPF and ULP Policies GEN2 and GEN3 of the Uttlesford Local Plan (adopted 2005).

10

Prior to the commencement of the development, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

a) Risk assessment of potentially damaging construction activities.

- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) to include measures to protect the adjacent Priority habitat, Ancient Woodland and Local Wildlife Site.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

REASON: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

11

Prior to any works above slab level, a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Updated Ecology Report (A. R. Arbon, December 2022), shall be submitted to and approved in writing by the local planning authority. This is to include the height and aspect the products will be installed at.

The enhancement measures shall be implemented in accordance with the approved details prior to occupation and all features shall be retained in that manner thereafter.

REASON: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

12

Prior to the commencement of the construction of the dwelling on each plot, full details of the house type, extension and/or garage options and layout within the plot and the materials to be used in the construction for that plot, including energy efficiency measures shall be submitted to and approved in writing by the local planning authority. Subsequently, the dwelling for that plot shall be constructed strictly in accordance with the approved details.

REASON: In the interests of the appearance of the site and because the final details for each plot have not been established to allow for flexibility in this custom/self-build scheme in accordance with ULP Policy GEN2 of the Uttlesford Local Plan (adopted 2005).

13

Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

REASON: To prevent environmental and amenity problems arising from flooding and to provide mitigation of any environmental harm which may be caused to the local water environment in accordance with the NPPF and ULP Policies GEN2 and GEN3 of the Uttlesford Local Plan (adopted 2005).

14

Prior to the first occupation of the development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the occupation of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed to include ponds, trees and hedgerows.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the longterm implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.”

REASON: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

15

Prior to the first occupation of the development, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings, and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and

maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

REASON: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

16

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Updated Ecology Report (A. R. Arbon, December 2022) as well as the 15m buffer from Ancient Woodland as identified in the Landscaping Plan, drawing no. 565.123 D (Pelham Structures Ltd., January 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g., an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.”

REASON: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

17

All of the dwellings approved by this permission shall be built to Category 2: Accessible and adaptable dwellings M4(2) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.

REASON: To ensure compliance with ULP Policy GEN2 (c) of the Uttlesford Local Plan 2005 and the subsequent SPD on Accessible Homes and Play space.

18

Cycle parking shall be provided for each dwelling in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

REASON: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with ULP Policy GEN8 of the Uttlesford Local Plan (adopted 2005).

19

All hard and soft landscape works shall be carried out in accordance with the approved details as shown on the Landscape Strategy drawing 565.123 D. The works shall be carried out before any part of the development is occupied or in accordance with a programme agreed with the local planning authority in accordance with ULP Policies GEN2 and GEN7 of the Uttlesford Local Plan (adopted 2005).

REASON: In the interests of the appearance of the site and the area in accordance with ULP Policies GEN2, GEN7, ENV3 and ENV8 of the Uttlesford Local Plan (adopted 2005).

20

No dwelling shall be occupied until the associated parking and/or turning head indicated on the approved plans has been provided. The vehicle parking and turning heads shall be retained in this form at all times.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interest of highway safety and that appropriate parking is provided in accordance with ULP Policy GEN1 of the Uttlesford Local Plan (adopted 2005).

21

Prior to first occupation of the development, highway improvements in the vicinity of the site on St Edmunds Lane shall be provided. These shall include but not be limited to:

- i. formalisation of the bus stop / improvements to the passenger transport infrastructure at the 'informal' bus stop located on the east of St Edmunds Lane along the site frontage, including raised kerbs, hardstanding, flags, timetables, pedestrian crossing points, a length of footway from the site access to the bus stops, and any other related infrastructure as deemed necessary by the Highway Authority.
- ii. Provision of a Vehicle Activated Sign (VAS). The infrastructure shall be provided entirely at the expense of the developer including any required safety audits, traffic regulation orders and other requirements for technical approval.

REASON: To provide access to sustainable forms of transport for users of the site and in the interest of highway safety, in accordance with ULP Policy GEN1 of the Uttlesford Local Plan (adopted 2005).

22

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.

REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure



mitigation against flood risk in accordance with the NPPF and ULP Policies GEN2 and GEN3 of the Uttlesford Local Plan (adopted 2005).

23

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

REASON: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk in accordance with the NPPF and ULP Policies GEN2 and GEN3 of the Uttlesford Local Plan (adopted 2005).

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Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), all exterior lighting shall be capped at the horizontal with no upward light spill.

REASON: In the interests of flight safety and to prevent distraction and confusion to pilots using Stansted Airport.

Appendix 1 – Statutory Consultee Responses