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E: [REDACTED]  
A: [REDACTED]

16<sup>th</sup> May 2023

Dear Sirs,

**RE: OBJECTION TO SECTION 62A PLANNING APPLICATION: S62A/2023/0017**

**Land at Tilekiln Green, Start Hill, Great Hallingbury CM22 7TA - Development of the site to create an open logistics facility with associated new access and ancillary office and amenity facilities.**

I write to lodge representation in respect of the above full planning application on behalf of the following properties: [REDACTED]

This is the third application to be submitted for an identical proposal at the site. Application reference UTT/21/0332/FUL being refused by the Local Planning Authority (LPA) on the following 9 grounds:-

1. The site lies outside development limits within an area designated as a Countryside Protection Zone (CPZ) within the Uttlesford Local Plan (adopted 2005). Policy S8 of the adopted local plan states that planning permission will only be granted for development within the CPZ that is required to be there or is appropriate to a rural area, adding that there will be strict control on new development. In particular, the policy states that development will not be permitted if either a) new buildings or uses would promote coalescence between the airport and existing development in the surrounding countryside, or b) it would adversely affect the open characteristics of the zone. The site constitutes an integral part of the Countryside Protection Zone (CPZ) falling within CPZ Parcel 1 (Tilekiln Green) for the purposes of evaluation for the 'Uttlesford Countryside Protection Zone Study' (LUC, 2016) whereby the landscape value of the site is considered intrinsic to the maintenance of the function and integrity of the Countryside Protection Zone. The proposed development by reason of its nature and magnitude would have a significant adverse impact on the existing open character and appearance of the site by filling an open gap, whilst the cumulative effect of the site infrastructure proposed with any associated external lighting would significantly erode the integrity of the zone generally. Furthermore, the development by reason of the site's location would result in a sense of coalescence with the airport development whereby the mitigation measures proposed would not eliminate this sense. The proposed development would therefore be contrary to Policy S8 of the Uttlesford Local Plan (adopted 2005).

2. As far as can be determined from the submitted plans the proposed road layout of Tilekiln Green and the B1256 could lead to an unacceptable conflict in the highway to the detriment of highway safety. In particular:

- 1.1. Whilst there is a 15m straight section back from the junction to be provided, it is in combination with a centre line radius that appears to be less than 44m given this junction is likely to be used extensively by articulated vehicles. Additional clarification is therefore required regarding the approach angle of the cab at the stop line on the B1256 to ensure that vehicles will not be encroaching over the centre line and footway and not be at an angle where visibility will be difficult to achieve.

- 1.2. Confirmation that the gradient at the junction will meet requirements of DMRB is required.

- 1.3. The road has a 7.5 tonne weight limit (accept for access). No measures have been shown to ensure that large vehicles do not turn right out of the site and contravene the ban.

- 1.4. A pedestrian crossing of the B1256 is shown to the west of the site entrance. Some aspects of this were raised in the safety audit, including conflict with a private access. The highway authority would want the conflict understood at this planning stage to ensure it is deliverable, so a swept path analysis should be undertaken. The desire line of the crossing is to the east of Tilekiln Green and so would be preferable if it were relocated to the east.

- 1.5. As identified in the safety audit, high PSV and HFS will be required by the highway authority on the approaches to the access.

- 1.6. The forward visibility splay to the repositioned directional sign should be shown on the plan.

The proposal as it stands is therefore contrary to the NPPF and Policy GEN1 a), GEN1 b) and GEN1 c) of the Uttlesford Local Plan (adopted 2005) relating to highway safety and capacity.

3. The applicant has not demonstrated that a general use for B8 for which this permission would be granted would not lead to queuing at the junction of the B1256 and Tilekiln Road to the detriment of highway safety.

- 2.1. The highway authority is satisfied with the trip generation and distribution shown for this site. However, the permission will be for a general B8 use. A sensitivity test for a general B8 distribution site should be undertaken to ensure that there is no detrimental queuing on the B1256.

The proposal as it stands is therefore contrary to the NPPF and Policy GEN1 a), GEN1 b) and GEN1 c) of the Uttlesford Local Plan (adopted 2005) relating to highway safety and capacity.

4. The applicant has not clearly demonstrated that the layout of the development will adequately accommodate the use on the site and will not lead to parking or manoeuvring on the highway to the detriment of highway safety. In particular:

- 3.1. The parking bay sizes appear to be 4.8m by 2.3m. This is below the minimum size of 5m by 2.5m to be used in exceptional circumstances and not the preferred bay size of 5.5m by 2.9m.

- 3.2. It is not clear from the submitted plans how large HGVs will be able to turn within the site when there are other HGV vehicles parked.

- 3.3. The space for the cycle parking is limited. Fewer better designed cycle parking spaces would make them more attractive to users.

The proposal is therefore contrary to the NPPF Policy GEN1 a), GEN1 b) and GEN1 c) and Policy GEN8 of the Uttlesford Local Plan (adopted 2005) relating to highway safety and capacity and ECC adopted parking standards.

5. The proposed development would effectively enclose the Grade II listed building known as The Old Elm whereby the setting and rural character of this heritage asset has previously been compromised by modern development where the proposal site currently positively contributes to its setting by the presence of established mature trees and its undeveloped nature which preserves the heritage asset. In this context, Historic England's publication, "The Setting of Heritage Assets" identifies that the experience of the asset includes "surrounding landscape" and "land use", including environmental factors and general nuisance. Whilst screening is proposed for the development, it cannot be guaranteed to remain in perpetuity. In the circumstances, the proposal would fail to preserve the special interest of the listed building contrary to S66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1991 through inappropriate development in its setting whereby it would accordingly be contrary to Policy ENV2 of the Uttlesford Local Plan (adopted 2005) and where the proposal would cause less than substantial harm under paragraph 196 of the NPPF.
6. The design of the proposed development by reason of the submitted landscaping scheme (potential for bird strike), a currently unacceptable lighting scheme and the absence of a submitted Glint and Glare Assessment would result in the proposed development having the potential to conflict with aerodrome Safeguarding criteria relating to the safety of flight for aircraft using Stansted Airport. The proposal is therefore contrary to Policy GEN2 of the Uttlesford Local Plan (adopted 2005) relating to appropriate and acceptable design.
7. National and local planning policy makes it clear that where existing residential premises are already exposed to high levels of noise, any future new development should avoid increase in the noise burden experienced by residents. The BS4142 assessment outcomes indicate a range from -25 to +2dB at noise sensitive receptors in the vicinity of the site. UDC technical guidance on noise recommends a BS4142 outcome of -5dB. However, it is likely that due to the existing acoustic environment, noise from the use of the site will be masked to some extent and it is understood that acoustic fencing is proposed around the perimeter of the south of the site, with further palisade fencing proposed at other areas. It is not clear from the submitted report as to the exact height of the proposed acoustic fencing and clarification is sought on this. Further, the applicant should provide further iterations of the undertaken noise modelling to include an increase in height and replacement of the palisade fencing with acoustic fencing to establish if this would result in any significant reduction in the BS4142 outcome to align closer with the Uttlesford District Council recommended BS4142 limit. As it currently stands, therefore, the proposal is contrary to the NPPF and ULP Policies ENV11, GEN2 and GEN4 of the Uttlesford Local Plan (adopted 2005) relating to potential impacts on residential amenity relating to noise.
8. Uttlesford District Council Air Quality Technical Guidance requires that an air quality assessment is necessary for proposals that would significantly alter the traffic composition in an area (e.g. by more than 25 HDV's AADT), including during the construction phase. Therefore, an AQ assessment should be provided by the applicant in conformance with section 4 of the above guidance for the operational phase and construction phase as required. As it currently stands, therefore, the proposal is contrary to the NPPF and Policies ENV13, GEN2 and GEN4 of the Uttlesford Local Plan (adopted 2005) relating to potential impacts on residential amenity relating to air quality.

9. A lighting assessment will be required to determine the impact of proposed operational and security lighting at the site. The assessment should include details of the location, height, type and direction of light sources and intensity of illumination and demonstrate compliance with Table 3 of the Institute of Lighting Professional Guidance note for the reduction of obtrusive light. Therefore, until this requested assessment information has been provided, the Local Planning Authority is not in a position to make a fully informed judgement regarding the environmental impact and effect of the proposal relating to lighting. The proposal is therefore contrary to the NPPF and Policies GEN2, GEN4 and GEN5 of the Uttlesford Local Plan (adopted 2005) relating to potential impacts on residential amenity relating to lighting.

Later application, reference UTT/22/0267/FUL for a development of the same description, was also refused on the following basis:-

1. The site lies outside development limits within an area designated as a Countryside Protection Zone (CPZ) within the Uttlesford Local Plan (adopted 2005). Policy S8 of the adopted local plan states that planning permission will only be granted for development within the CPZ that is required to be there or is appropriate to a rural area, adding that there will be strict control on new development. In particular, the policy states that development will not be permitted if either a) new buildings or uses would promote coalescence between the airport and existing development in the surrounding countryside, or b) it would adversely affect the open characteristics of the zone. The site constitutes an integral part of the Countryside Protection Zone (CPZ) falling within CPZ Parcel 1 (Tilekiln Green) for the purposes of evaluation for the 'Uttlesford Countryside Protection Zone Study' (LUC, 2016) whereby the landscape value of the site is considered intrinsic to the maintenance of the function and integrity of the Countryside Protection Zone. The proposed development by reason of its nature and magnitude would have a significant adverse impact on the existing open character and appearance of the site by filling an open gap. The proposed development would therefore be contrary to Policies S8 and S7 of the Uttlesford Local Plan (adopted 2005).
2. The proposed development would cause less than substantial harm to the setting and significance of the listed building, The Old Elm, by encroaching upon the last remaining section of its original setting, paragraph 202 of the NPPF being relevant. The harm is considered on the low end of the scale. The proposals would fail to preserve the special interest of the listed buildings, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, because of excessive development within their setting. These proposals are therefore considered contrary to Policy ENV2 of the adopted Uttlesford Local Plan 2005 and the NPPF.
3. The development would result in unacceptable material disturbance to occupiers of surrounding properties to the detriment of their residential amenity contrary to Uttlesford Local Plan Policy GEN4 and the NPPF.
4. The development fails to provide the necessary mechanism to secure the required provision of appropriate infrastructure to mitigate the development by way of lack of travel plan and associated monitoring fee £6,132, lack of financial contribution of £40,500 for the upgrade of the Flich Way, and monitoring fee of £426, contrary to Policy GEN6 of the Adopted Local Plan 2005 and the NPPF.

I have assessed this latest planning application proposals and will set out why strong concerns remain that the development fails to comply with the Development Plan and the National Planning Policy Framework (NPPF) in terms of the principle of development; adverse landscape impacts; harm to the setting of heritage assets; and harm to neighbouring amenity.

## **Principle of Development**

Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that the determination of an application for planning permission must be made in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan comprises of 1) Uttlesford Local Plan (2005); 2) Essex Minerals Local Plan (2014); and 3) Essex and Southend-on-Sea Waste Local Plan (2017). As designated within the Uttlesford Local Plan (ULP), the site is located within the Countryside Protection Zone (CPZ) which is described as an area within which 'planning permission will only be granted for development that is required to be there, or is appropriate to a rural area.' (Policy S8 of the ULP).

Given the commercial nature of the proposed use, the large scale of operation with significant traffic movements, and due to the harmful impacts on the rural landscape (as discussed further later in this letter), the development quite clearly cannot be considered appropriate to the rural area. The proposed development is therefore contrary to this key Development Plan policy.

Indeed, the LPA, in both the earlier refused applications for the same proposal concluded that the development would be in conflict with the aims and objectives of the Countryside Protection Zone and would be contrary to Policy S8. There has been no change in circumstance or policy position, and this fundamental objection therefore must remain.

Further weighing against the suitability of the site for such commercial development is the fact that the site was reviewed as part of the 2018 update to the Strategic Land Availability Assessment (SLAA), which concluded that the site was unsuitable as 'development on this site would not contribute to sustainable patterns of development'. Although the SLAA exercise was carried out to inform the now withdrawn replacement Local Plan, the conclusion of it remains in terms of the unsuitability of this site for the proposed use.

Within the Committee Report for application UTT/22/0267/FUL, it set out that as policy S8 is more restrictive than the relevant policies within the NPPF only limited weight can be assigned to it. Even if this is accepted, it is still a matter of fact that the proposed development is contrary to the Development Plan and is a factor which must weigh against the application in the overall planning balance.

Indeed, the LPA in the earlier refused application UTT/21/0332/FUL stated that a 'significant level of environmental harm would arise from the proposal in light of the aforementioned Countryside Protection Zone'. They concluded that, in the planning balance, the objections and 'adverse impacts identified would outweigh any of the economic and operational benefits generated'.

## **Landscape Impact**

The application has been submitted with a Landscape and Visual Appraisal (LVA) which concludes that the development would give rise to only low levels of landscape and visual effects, especially in relation to the wider rural setting. This LVA remains as per that submitted within earlier refused application.

The Councils Landscape Officer in reviewing the LVA submitted within application UTT/21/0332/FUL objected to the application and commented that '*The proposal site constitutes an integral part of the designated CPZ. The proposed development would*

*significantly erode the integrity of the CPZ and result in a sense of coalescence with the airport development. The proposed mitigation measures would not eliminate this sense.'*

No additional information has been submitted to deviate from this view. The development would still involve the creation of extensive areas of hardstanding aprons for the parking of commercial fleet vehicles; ancillary hardstanding apron areas for parking of employees; the creation of perimeter banking and screen fencing; and excessive column lighting (across the site 21no. 10-metre-high columns, 3no. 8-metre-high columns, and 12no. 6-metre-high columns are proposed).

By reason of the nature and scale of these elements, the development would have a significantly damaging effect on the current open and undeveloped characteristics of the site by introducing a significant man-made urban form, which would introduce a significant change to the existing rural settlement pattern, resulting in a sense of coalescence between the M11/A120 interchange and the remainder of Start Hill to the east and Tilekiln Green.

Within application UTT/22/0267/FUL the Councils Landscape Officer maintained concerns with the development concluding that *'The proposed development would have a significant detrimental visual impact on the open rural character on a substantial area of the zone'*. The Landscape Officer notes that the proposed planting may achieve some screening, but it would not mitigate the harm of the development.

I have previously been critical of the LPA's Committee Report for application UTT/22/0267/FUL which quite shockingly did not even refer to wider landscape considerations. At Paragraph 14.2 of that Report entitled 'The issues to consider in the determination of this application' it was not listed within the 6 key issues, and equally landscape considerations are not detailed within Paragraph 14.7, 'impact on natural environment'. It was therefore pleasing to see that the Member decision (within reason for refusal no. 1), stated that the proposed development by reason of its nature and magnitude would have a significant adverse impact on the existing open character and appearance of the site.

Within this latest application the landscape harm associated with the development remains significant. The development would fail to comply with Policy S8 (The Countryside Protection Zone) or ENV7 and ENV8 (The Protection of the Natural Environment / Other Landscape Elements of Importance for Nature Conservation) of the ULP. Furthermore, it is considered that the development would fail to recognise the 'intrinsic character and beauty of the countryside' (Paragraph 170 of the NPPF). It is considered that the harm to the open countryside and the wider character and appearance of the site is a matter which weighs significantly against the proposal and should form a reason for refusal in its own right, notwithstanding any view which is taken on the weight to be applied to Policy S8 of the ULP.

### **Impact to neighbouring amenity**

There are a number of residential dwellings within very close proximity to the application site. Brookside and Rivendell are two-storey properties which adjoin the application sites south-eastern boundary. The curtilage of 'Brookside' runs alongside the wooded field and partly the pumping station. There is a full view of the application site from the rear of both of these properties rear ground and first floor windows. Brookside also has a first-floor flank window facing the development site. The site is also viewed across the entirety of their gardens. The impact upon the amenity of occupiers of these two dwellings would be significant.

The properties of The Old Elm, Willow House and The Stables are located to the application sites north eastern boundary, located to the opposite side of the road but directly opposite the

proposed new site access and the proposed re-aligned highway works. They too will be severely adversely impacted by the proposal.

The main areas of concern to amenity relate to adverse noise impacts and harmful impact to outlook. As discussed under the following sub-headings, it is considered that the development fails to meet with Policies ENV10, GEN2, GEN4 and GEN5 of the ULP. Furthermore, the development would fail to meet with Paragraph 180 of the NPPF which states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development, and that decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life.

### Noise Impacts

On application UTT/22/0267/FUL, and as set out within the Committee Report, Officers concluded that 'the development will have a material detrimental impact on the amenity of the occupiers of nearby residential properties'. However, the Report then went on to set out that taking into account the mitigation proposed and the existing noise levels from Stansted Airport, the B1256 and the M11, it is not at such a level to warrant refusal of the application.

This matter remains disputed by neighbours and it is not agreed that mitigation would overcome the harm. The application form makes clear that the operation of the site is sought for 24 hours a day, 7 days a week. Nowhere in the Committee Report is this stated and thus the consideration of the development upon neighbours has also not taken this 24/7 operation into account.

The noise impacts from HGV and other vehicle movements on the access roads, HGV's manoeuvring with external working for loading and unloading in open yards, and vehicular activity in the car park area, all operating 24 hours a day, 7 days a week, would result in significant increase in noise disturbance to the occupiers of nearby residential dwellings.

In terms of mitigation, it is noted that the LPA previously suggested a Condition (Condition 4) relating to the need to submit a Construction Environmental Management Plan (CEMP), which included hours of operation to be agreed. However, in imposing this, it clearly suggests the LPA have not noted that the hours are suggested as 24/7. The condition also imposes other criteria (details of any highway works necessary to enable construction to take place and parking and loading arrangements), which have already been submitted. This equally would suggest that Officers have not fully assessed the proposal.

There is insufficient information submitted to fully assess the proposal in regard to the impact to neighbours. The development is contrary to Policies ENV10 and GEN4 of the ULP and would fail to meet with Paragraph 180 of the NPPF which states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects on living conditions, as well as the potential sensitivity of the site or the wider area.

### Outlook

The development will inevitably result in a harmful impact to the amenity of occupiers by virtue of their outlook from both their property and their rear garden. As noted above, Brookside and Rivendell have numerous windows within their rear elevation as well as the flank. The proposed development adjoins Brookside with the 107no. space car park being the closest part of the scheme. This large expanse of carpark is entirely hard surfaced and enclosed by an oppressive 2.4-metre-high close boarded fence. It will appear unduly prominent and alter

their outlook from pleasant countryside to a high intensity commercial use. The development consisting almost entirely of open parking and outside working areas will be overly dominant and oppressive, and thus harmful to the enjoyment of the occupiers of the dwelling of Brookside and Rivendell.

### **Impact to Heritage – Setting of The Old Elm**

The application has been submitted with a Heritage Impact Assessment that primarily assesses the impact of the development on the Grade II Listed Building of The Old Elm which is located at the junction of Tilekiln Road and Dunmow Road.

S66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1991 states that 'In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or any features of special architectural or historic interests which it possesses'.

The NPPF at Paragraphs 193 and 194, outlines that great weight should be given to an asset's conservation and that any harm to the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Paragraph 202 of the NPPF states 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.

The impact to the setting of The Old Elm has consistently been a matter of objection for the Councils Conservation and Heritage Consultant (Essex County Council - Places Services) who have stated that they are unable to support the applications, commenting that although the setting of the building may have already been impacted by surrounding later developments, the current open nature of the site, preserves and positively contributes to the rural setting of the heritage asset. Any development on the site will therefore inevitably have a harmful impact upon the heritage asset. They have continuously stated that the development would lead to 'less than substantial harm'.

The LPA in their previous Committee Report confirmed the 'less than substantial harm', but failed to undertake the required 'heritage balance' there being no assessment set out within the heritage considerations of the Committee Report (Paragraph 14.6) of what public benefits may exist to outweigh the harm. It is considered that given the scale and nature of the application, there are not any such public benefits. The development is firmly contrary to the NPPF and Policy ENV2 of the ULP.

### **Conclusion**

The proposed commercial open logistics facility would amount to inappropriate development in this countryside location, wherein the principle of development would be contrary to the Development Plan. The applicant has not advanced any material considerations to justify departure from the adopted plan policies. No new evidence has been submitted to overcome this fundamental objection or for the decision maker to reach a different conclusion other than refusal.

The site is located in a character area described as having a relatively high sensitivity to change. The development would result in landscape effects in regard to both the local and wider landscape character and the visual change would be relatively prominent in this



otherwise undeveloped scene. The development fails to recognise the 'intrinsic character and beauty of the countryside'.

The impact to residential neighbouring amenity to the occupiers at Brookside, Rivendell, The Old Elm, Willow House and The Stables would be significant given the close proximity of the development. There would be harm from noise impacts from the large-scale operations from outdoor workings and traffic movements and harmful impacts to outlook with close proximity views of the large expanse of carpark, outdoor workings and oppressive 2.4-metre-high close boarded fence.

The development will also result in less than substantial harm to the setting of the Grade II Listed Building of The Old Elm. No public benefits exist to outweigh this harm.

In terms of a planning balance, the adverse impacts of the development, relating to the conflict with the development plan; the harm to landscape character; harm to the setting of a listed building; and harm to neighbours' amenity, would significantly and demonstrably outweigh any benefits to the proposal, which relate solely to the economic benefits.

Given the above, the application should be refused in line with the NPPF, and the LPA's Development Plan policies. I trust that you will take the above comments into account, and I look forward to hearing from you further in this regard.

If amended plans or supporting documentation are received, we request the opportunity to provide a further response.

Your Sincerely

A solid black rectangular box used to redact the signature of Lisa Page.

**Lisa Page BSc (Hons), MATP  
Planning Consultant**

June 2018