

13th October 2022
479095/A3/JD/JK



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Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 62A APPLICATIONS)
RESIDENTIAL DEVELOPMENT COMPRISING 130 DWELLINGS, TOGETHER WITH A NEW VEHICULAR
ACCESS FROM HENHAM ROAD, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED
HIGHWAYS, DRAINAGE AND OTHER INFRASTRUCTURE WORKS (ALL MATTERS RESERVED FOR
SUBSEQUENT APPROVAL APART FROM THE PRIMARY MEANS OF ACCESS, ON LAND TO THE
SOUTH OF HENHAM ROAD, ELSENHAM)
LAND TO THE SOUTH OF HENHAM ROAD, ELSENHAM, ESSEX
APPLICATION REFERENCE: S62A/22/0007**

In response to the Inspector's interim comment letter, dated 6th October 2022, please find below our response strategy and timeline. For completeness and legibility of the Applicant's response we have included your comment / observation / query in full, followed by our initial response.

We have been monitoring the consultation responses and representations received.

Uttlesford District Council

We have noted the response from UDC, however this appears to have omitted the consideration of some very important planning matters. To assist PINS with its consideration of the application, the Applicant proposes to prepare a short note on these matters for the Inspector's consideration.

Highway and Transport Matters

5. The Transport Assessment (TA) uses VISSIM, a microsimulation traffic model, to assess the effect of the development at the Grove Hill/Lower Street junction and the interaction between junctions in Stansted Mountfitchet. Essex County Council, (ECC) as highway authority (HA) has requested further information, including a copy of the model. The information required is, details of the application of the committed development traffic flows; raw traffic survey data, including the queue lengths collected; and further details of how traffic demand has been treated in the junction models.

Please can the applicant confirm the date when this further information will be submitted to the HA.

Applicant response:

The additional information requested by ECC has been prepared and was issued direct to ECC by the Applicant's highways consultant on 29/09/22.

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6. The TA identifies the potential for traffic to travel south via Hall Road, Coopers End Roundabout, and routes adjacent to Stansted Airport. Consultees and interested person have highlighted that Stansted Airport has, in the past, closed this route and could do so again.

Can the applicant address this matter, providing further information on (a) the potential for road closures adjacent to the airport and if necessary (b) assess the effect of a road closure on junction capacity and queuing from traffic routing onto alternative routes.

Applicant response:

The Applicant's highways consultant is considering this matter and suggests that an addendum to the TA might be required to address the matter, and is seeking to discuss this with ECC Highways and MAG – London Stansted Airport. It is anticipated that an Addendum will be submitted to PINS, including any additional information required, no later than Wednesday 30th November 2022.

7. The Planning Statement and Framework Residential Travel Plan refer to opportunities to promote the use of non-car modes of transport. The measures include the promotion of public transport services including financial contributions towards the existing bus service.

The applicant is requested to indicate whether the relevant transport providers have identified what provision can be made and what the mechanisms are to implement that provision.

Applicant response:

The Applicant has not made any approach direct to public transport operators as such approaches are usually made by ECC and not the Applicant. ECC prefer that a financial contribution should be paid to it rather than a particular bus operator with it then deciding how best to spend the contribution. The Applicant will discuss this matter with ECC and provide an update on these discussions to PINS, including any additional information required, no later than Wednesday 30th November 2022.

8. Elsenham Parish Council (EPC) express concern that the traffic modelling takes no account of proposed, but not permitted, developments in the Elsenham and Stansted Mountfitchet areas. As such, the predicted traffic impacts are unrealistic.

9. EPC disputes the applicant's walking distances to various. These errors result in an overstatement of the ability of prospective residents to access various facilities other than use of the private car.

10. EPC submits that the submitted Travel Plan is unlikely to bring about material changes in travel patterns and would have no material impact on reducing traffic impacts.

The applicant is requested to consider EPC's comments and to indicate whether further information needs to be submitted and whether a further Transport Assessment is required.

Applicant response:

The Applicant's highways consultant is considering the matters raised and will seek to agree an agreed position with ECC. The timescale for responding will depend on whether it is agreed that a revised TA / TA Addendum is required – if so then it is anticipated that this revised TA / Addendum will be submitted to PINS, including any additional information required, no later than Wednesday 30th November 2022.

11. At the time of writing a full response from the HA has not been received (anticipated 12 October 2022). Therefore, the above should be read as interim comments and it may be necessary to seek further clarification once the response of the HA has been considered.

Applicant response: Noted.

MAG – London Stansted Airport

12. The airport Safeguarding Authority has submitted a holding objection relating to the potential for an increased risk of bird strike. MAG refer to the SuDS drainage strategy, which includes 2 attenuation basins, swales, permeable paving, and an underground storage tank. MAG suggests that all drainage should be underground to prevent the swales attracting hazardous waterfowl or that appropriate mitigation is provided.

13. MAG seeks further information on (1) confirmation of drain down times for the attenuation basins, (2) a management and maintenance programme for the SuDS, confirming that regular maintenance will be in place to ensure the drainage outlets on the swales and basins continue to drain down correctly, (3) mitigation measures on the basins to deter hazardous waterfowl, and (4) confirmation that no islands or peninsulas will be introduced on any waterbody. Should the above concerns be satisfied and planning permission granted, MAG suggest conditions relating to, dust/smoke control, landscaping, and lighting.

The applicant should consider this request and provide further information on how the threat of potential bird strikes can be mitigated.

Applicant response:

The Applicant's ecologist, landscape consultant and drainage consultant are reviewing this matter and are liaising to formulate a response. It is anticipated that this response will be submitted to PINS, including any additional information required, no later than Friday 11th November.

Biodiversity

14. The application proposes ecological enhancement measures on an additional area of land, edged green on the Site Location Plan and within the ownership of the applicants, approximately 100–200 m to the north-east. The Biodiversity Net Gain Design Stage Report indicates that to ensure the delivery of these ecological features there is a requirement for an appropriate Construction Environmental Management Plan and Landscape and Ecology Management Plan to be in place from design to the operational phase of the development. The report goes on to indicate that a Management Plan would be required for the off-site proposals.

The applicant is requested to confirm that the area identified for off-site ecological enhancement forms part of the planning application and is identified on an appropriate plan as “land edged blue”.

The applicant is requested to indicate what measures are being proposed and how they will be implemented to ensure the ongoing provision and management of the off-site ecological area.

Applicant response:

With regard to the first query, the Applicant can confirm that the off-site ecological enhancement land is that shown on the Site Location Plan (ref. 001.02) edged in green, within the land edged in blue.

With regard to the second query, the Applicant will prepare a high-level BNG Strategy, but would note that the eventual strategy would be dependent on detailed ecological, landscaping, drainage, and design/specification measures to be secured at Reserved Matters stage. It is anticipated that the high-level BNG Strategy will be submitted to PINS, including any additional information required, no later than Friday 11th November 2022.

It is anticipated that conditions would require the submission of the CEMP and LEMP (or possibly within the S106 Obligation) but that given that some measures contained therein would be off-site, delivery of the measures would then be secured by a S106 obligation.

The Applicant is progressing a draft S106 Obligation and will be liaising with UDC and other parties in this regard. UDC's availability will determine the timescale for agreeing a S106 Obligation. Notwithstanding this,

a first draft S106 will be provided by way of update to PINS no later than Friday 11th November 2022, along with a projected timetable for progressing this further.

15. *The site is located some 1.7km, 2.4km and 4.7km from Elsenham Woods, Hall's Quarry and Quendon Woods, 3 Sites of Special Scientific Interest (SSSI). In addition, the site is some 4.8km from the Hatfield Forest SSSI and National Nature Reserve (NNR). The application is accompanied by ecological assessment¹ (EA) and a biodiversity net gain (BNG) report². The EA recognises the potential for impacts on the Elsenham SSSI and Hatfield Forest SSSI/NNR and identifies that on-site mitigation, links to public rights of way and financial contributions towards the management and mitigation of the effects on the SSSIs and NNR may be required.*

16. *ECC Places Services – Ecology has submitted a holding objection indicating that there is insufficient information to assess the potential effect on Priority Species – Skylark.*

The applicant should consider this request and provide further information to address any omission.

Applicant response:

The Applicant can confirm that the reference to 'skylarks' was a typographical error – no skylarks were recorded on the site. A corrected Ecological Assessment is enclosed herewith.

17. *ECC and the National Trust (NT) identify that the site is located within Zone of Influence of the Hatfield Forest Site SSSI and NNR and the Impact Risk Zone for the Elsenham Woods SSSI. Residential development within these zones requires on-site and off-site mitigation measures agreed with Natural England (NE) to put in place. The NT refer to the Strategic Access Management Measures (SAMMS) document (Hatfield Forest Mitigation Strategy – May 2021 which contains a costed package of mitigation measures.*

18. *NE has no objection to the proposal subject to securing appropriate mitigation to offset the harm the proposals may have upon the Hatfield Forest SSSI and NNR. NE advises that permission should not be granted until such time as the on and off-site mitigation measures have been assessed and secured through the appropriate means.*

19. *Suggested on-site mitigation includes informal semi-natural areas, circular dog walking routes of more than 2.7km and/or links to surrounding public rights of way (PROW), dedicated dog off-lead areas, signage/leaflets to householders to promote these areas for recreation and dog waste bins.*

20. *Off-site mitigation would take the form of a financial contribution of some £19,500 to the NT for use towards visitor and botanical monitoring and mitigation works.*

The applicant is requested to assess the on and off-site mitigation measures referred to by NE and the NT and indicate how and what progress have been made to address these requests.

Applicant response:

The Applicant's ecologist is reviewing the comments from both the NT and NE. It is noted that neither NT nor NE object in principle subject to securing of appropriate on/off-site mitigation. The Applicant's ecologist sought to engage with NE prior to the submission of the application but were not provided with the opportunity to discuss the Proposed Development or mitigation beyond NE's standard advice.

Given the consultation response, the Applicant's ecologist is seeking to engage with NE and NT, and NE's availability will determine the timescale for a response. However, it is anticipated that a response will be provided to PINS, including any additional information required, no later than Friday 11th November 2022.

21. *NE offers additional advice in relation to landscape, the use of best and most versatile agricultural land and soils, impact on protected species, the impact on local sites and priority habitats and species, woodland and trees, environmental and biodiversity gains and access and recreation.*

The applicant should indicate how the proposal would address the above matters.

Applicant response:

These matters have been addressed in the submitted applications and supporting documentation. However, given the consultation responses received, the Applicant will prepare a 'catch-all' note to cover all of these matters, including cross-referencing documentation already submitted. It is anticipated that a response will be provided to PINS, including any additional information required, no later than Friday 11th November 2022.

22. Based on the information available to date, the Inspector considers that it might be necessary for the competent authority i.e., the Secretary of State, to undertake an Appropriate Assessment in this case. Article 6 of the Habitats Directive, transposed into UK law through the Conservation of Habitats and Species Regulations 2017, requires that where a project is likely to result in a significant effect on a European site either alone or in combination with other plans or projects, and where the project is not directly connected with or necessary to the management of the European site, a competent authority is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.

The applicant is requested to consider the need for an Appropriate Assessment and, if necessary, to submit a shadow assessment to assist the Inspector in determining this application.

Applicant response:

Following very careful consideration of this matter during the preparation of the application, the Applicant concluded that it did not consider that an Appropriate Assessment is required. However, the Applicant will, in light of the consultation responses received, reconsider this position. The Applicant will update PINS as soon as possible in this regard and will either provide a note as to why it considers that AA is not required to PINS no later than Friday 11th November 2022, or will provide a timetable for the preparation of a shadow AA by that date.

Heritage Assets

23. ECC Place Services Historic Environment Team identify adverse impacts on the setting of the following 8 Grade 2 Listed Buildings and how are they experienced and appreciated. These are:

- The Lodge;
- The Stores and House;
- The Crown Inn;
- 1 and 2, the Cross;
- Village Hall Cottage;
- 5, The Cross;
- Tinkers Cottage;
- The Old Vicarage.

ECC assess the level of harm to their significance to be low to middle in the spectrum of less than substantial harm.

24. ECC identifies considerable harmful urbanising effects on the following 6 Grade 2 Listed Buildings:

- Gardener's Cottage;
 - Range of thatched, timber framed outbuildings, and barn to west of Gardeners Cottage;
 - Elsenham Place;
 - Barns to west of Elsenham Place;
 - Dovecote to south-west of Elsenham Place.
- ECC assess the level of harm to their significance to be middle in the spectrum of less than substantial harm.*

25. ECC assess that there would be no harm to the significance of the Grade 1 Listed Church of St Mary the Virgin.

26. Of the 153 Grade 1 and 2 Listed Buildings assessed by the applicant, 3 are identified as experiencing a low level of less than substantial harm to their significance. These are: barns to the west of Elsenham Place, Dovecote to the south-west of Elsenham Place and Nos. 1 and 2 The Cross. The applicant submits that the less than substantial harm to the heritage assets would be outweighed by public benefits, which includes a site wide biodiversity net gain of 20%.

The applicant to consider whether and to indicate if further assessment of the effect on the settings of the Listed Buildings identified by ECC as being adversely affected is necessary.

The applicant to explain how the proposed biodiversity net gains would outweigh the less than substantial harm to heritage significance and to explain why this is a relevant consideration in relation to the heritage balancing exercise required by paragraph 202 of the Framework.

Applicant response:

The Applicant's heritage consultant is reviewing the consultation response and will prepare a note responding to this query. It is anticipated that a response will be provided to PINS, including any additional information required, no later than Friday 11th November 2022.

Similarly, the Applicant will prepare a separate note responding to the second query. It is anticipated that a response will be provided to PINS, including any additional information required, no later than Friday 11th November 2022.

Housing Mix & Tenure

27. Policies H9 and H10 of the Uttlesford Local Plan 2005 (LP) refer to Affordable Housing (AH) and Housing Mix. Also referred to is the Housing Strategy 2021–2026 (HS).

28. LP Policy H9 indicates that on windfall sites, the lpa will seek to negotiate, on a site by site basis, AH of up to 40% of the total provision. On tenure, the Planning Statement proposes the provision of 40% (52 units) AH. Of these, the applicant anticipates that 70% would be for intermediate rent, 25% would be First Homes, and 5% shared ownership.

29. UDC's Housing Strategy section has indicated, (1) a policy requirement for 40% AH, (2) AH to be delivered by a preferred Registered Provider, (3) that 5% of all units are delivered as fully wheelchair accessible and (4) mix and tenure split to be determined at the reserved matter stage.

The applicant is requested to indicate how the proposed AH is intended to be delivered, by who and outline what discussions, if any, have occurred regarding tenure split.

Applicant response:

The Applicant (Countryside) will deliver the affordable housing and transfer these on agreed terms to a Registered Provider. No discussions with UDC or RPs has taken place in relation to the tenure split, with the tenure split noted in the submitted Planning Statement having been determined with reference to published policy and guidance. It is anticipated that a further response will be provided to PINS on this matter, including any additional information required, no later than Friday 11th November 2022.

30. LP Policy H10 requires developments of 3 or more dwellings to include a significant proportion of market housing comprising small properties. The Illustrative Masterplan shows 2 bungalows. The HS, page 15, highlights a shortage of bungalows within the district for both market purchase and affordable rent and a

requirement for 5% of properties on new housing developments to be bungalows. This requirement applies to both the affordable and market housing on a site.

The applicant is requested to indicate whether any discussions have taken place with the Ipa in relation to dwelling mix by type and how the requirements of the Housing Strategy 2021-2026 could be achieved by this proposal.

Applicant response:

As above, the Applicant (Countryside) will deliver the housing and transfer the affordable housing on agreed terms to a Registered Provider. No discussions with UDC or RPs has taken place in relation to the housing mix, with the mix shown on the Illustrative Masterplan having been determined with reference to published policy and guidance, and the location and nature of the Application Site. It is anticipated that a further response will be provided to PINS on this matter, including any additional information required, no later than Friday 11th November 2022.

Noise

31. The Environmental Health Team indicate that external sound levels are expected to exceed the upper guideline value of BS8233 at a several properties close to Henham Road and Hall Road. Thus, there is the potential for some residents to be adversely affected by unacceptable levels of noise pollution.

Can the applicant address this concern?

Applicant response:

The Applicant's noise consultant is reviewing the consultation response and will prepare a note responding to this query. It is anticipated that a response will be provided to PINS, including any additional information required, no later than Friday 11th November 2022.

S106 Agreements/Undertakings

32. Both the applicant and UDC identify a need for planning obligations in relation to:

- Applicant and UDC
 1. the delivery of the proposed off-site ecological enhancement area;
 2. the provision of on-site affordable housing;
 3. a financial contribution to primary healthcare provision;
 4. a financial contribution to education provision;
 5. a financial contribution towards the mitigation of impacts identified by the National Trust and Natural England.
- UDC
 6. a financial contribution for libraries;
 7. provision and long-term maintenance of public open spaces;
 8. highways obligations and associated financial contributions;
 9. community facilities;
 10. provision of a community meeting room;
 11. a contribution for a community hall;

The applicant is requested to identify, having regard to the provisions of the Framework and R21 of the Community Infrastructure Regulations, the scale of financial contributions considered necessary and the mechanism for ensuring their implementation.

Applicant response:



The Applicant's solicitor is considering these requests and will be engaging with UDC and other parties to ensure that these requests are R122 compliant. These matters will then be included in the draft S106 Obligation as referred to above. UDC's and ECC's availability will determine the timescale for agreeing a S106 Obligation. Notwithstanding this, a first draft S106 will be provided by way of update to PINS no later than Friday 11th November 2022, along with a projected timetable for progressing this further.

Other Matters

We note your various other comments on the final page of your letter.

The Applicant is agreeable in principle to an extension to the determination period, in part to facilitate any re-consultation, and looks forward to a mutually agreed extension.

Yours faithfully,



Jonathan Dixon
BA (Hons) MA MRTPI FRSA
Director

Enc. Updated Ecological Assessment (Rev C), prepared by SES, dated July 2022

cc: Carl Glossop, Countryside Properties 