

This is an additional response to planning application S62A/2022/0014 from Saffron Walden Town Council. This response refers to two fundamental matters which have arisen from the submission made by Uttlesford District Council on 17 January 2023:

1. Strategic Open Space and the community facilities contribution of £220,000 from the S106 agreement of planning application UTT/13/3467/OP.
2. Uttlesford's five-year housing land supply and the application of the NPPF balance accordingly

Please note that SWTC continues to object to the application in line with our initial response and this response should be considered in addition to that response.

**Strategic Open Space, community facilities contribution of £220,000 from the S106 agreement of planning application UTT/13/3467/OP.**

As context the S106 agreement relating to application UTT/13/3467/OP dated 21/05/2015 can be found online at: <https://publicaccess.uttlesford.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MYMMNLQN01O00>

For clarity, the references to the strategic open space contribution can be found as follows:

Page 9, paragraph 1.35

*“Neighbouring land” shall mean the land to the south of Thaxted Road shown edged red on Plan 3 and included in planning application UTT/13/2060/OP Copy of the plan 3 map, below.*



Page 12, paragraph 1.57

*“Strategic open space contribution” shall mean two hundred and twenty thousand pounds (£220,000) indexed linked from 30 April 2014 to date of payment as a contribution towards the provision of but not limited to the following community facilities on the Neighbouring Land:*

- *skate park or an extension to the existing skateboard facilities*
- *Rugby pitches*
- *Running track*
- *Facility building and car park "*

Page 33, part 6, paragraphs 24 and 25

*Prior to the occupation of 75% of the open market housing units the owners shall pay the strategic open space contribution to UDC"*

*The owners shall pay the strategic open space contribution to UDC prior to the occupation of 75% of the open market housing units."*

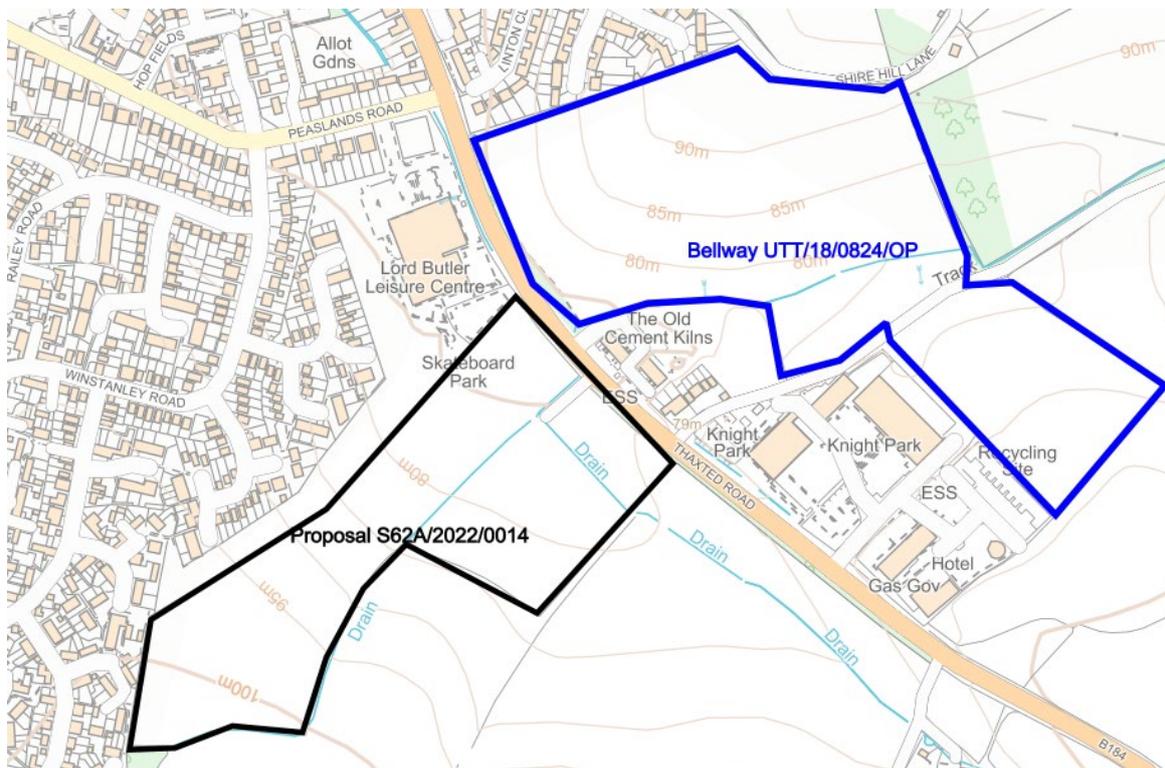
At time of writing the S106 monies from application UTT/13/3467/OP cannot be spent unless the developer of S62A/2022/0014 safeguards what is referred to as the neighbouring land.

The following queries have been raised to us by the District Council:

1. *Confirm if this is correct and if not, why not?*

Yes, this is correct. As detailed above planning application UTT/13/3467/OP includes what is referred to as a Strategic Open Space contribution which can only be spent on the land highlighted in the above map.

This land has now effectively been split into two, this being the Bellway development and the new proposal land (S62A/2022/0014) – this is illustrated below in the map prepared by SWTC. This application therefore sits on the 'neighbouring land', meaning the Strategic POS contribution cannot be spent.





The monies have been issued to the District Council but currently cannot be spent as the land is not in their or the Town Councils ownership. The s.106 agreement was drafted as it was because Kier were at the time proposing that the land now the subject of the application would be given to the Town Council for sports use, including for rugby and athletics. At the time it was envisaged that Saffron Walden Rugby Club would relocate to the applicant site from their current ground near the village of Henham, that the skatepark would expand and that an athletics track would be provided.

Conversations have been ongoing for several years to determine whether the S106 can be varied allowing the money to be spent elsewhere and have not yet reached a formal resolution.

*2. Confirm what these facilities are and where they are to be provided.*

This is detailed within Page 12, paragraph 1.57 of the S106, this being: Contribution towards the provision of but not limited to the following community facilities on the Neighbouring Land: Skate Park or an extension to the existing skateboard facilities, rugby pitches, running track and/or facility building and car park, as explained in relation to question 1 above.

*3. Confirm that the provision of facilities required by the older permission would not also be used to mitigate the effect of this development (i.e., double counted) or if they are, how would they be enhanced to mitigate the effect of both schemes?*

The S106 community provision in application UTT/13/3467/OP is separate and independent of any other S106 discussions or negotiations. Its sole purpose was to mitigate the effects of its own development, not to mitigate the effect of the current application or any other development. We do not see any way that they can mitigate the current application.

The older permission provides no sports or leisure facilities on site, but instead provides land for a new primary school. As no sports or leisure provision is made on-site, it was agreed that mitigation would instead be made through assistance to pay for facilities off site on the application land.

*(I will now refer to this as the money arising from the Linden Homes site and this application being considered as Kier.)*

The Linden Homes money must be spent on the Kier land; it cannot be spent anywhere else,

As stated above, conversations between the developer and District Officers have been ongoing to reach an agreement but a conclusion has not yet been reached.

This does not mean that the Linden Homes money offsets any requirement on Kier in any shape or form and Kier must be required to provide mitigation for their development.

At time of writing SWTCs sees two possible outcomes, these being:

1. Should formal agreement **not** be received from Linden Homes, then Kier must safeguard the land to allow SWTC/UDC to spend the monies on the Kier site as detailed in Linden's S106. (Kier would still be obligated however to provide mitigations for their own development.)
2. **OR** If Linden formally agree monies **can** be spent elsewhere in Saffron Walden, the matter will be resolved in terms of the Kier site, and it will no longer be relevant for this application.



Notably, conversations are currently being had to progress with outcome 2, with some progress made last week but a formal outcome has not been reached.

Factually as it currently stands, outcome 1 is valid and Kier should provide the land for UDC/SWTC to spend the community facilities money from the Linden Homes S106.

Should the above situation change and a formal agreement is reached with Linden Homes, then SWTC will write again to inform PINS if outcome 1 is reached.

### **The five-year housing land supply (5YHLS).**

Uttlesford District Council has submitted a 5YHLS statement stating that Uttlesford has a housing supply of 4.89 years, which equates to a shortfall of 78 dwellings for the five-year period.

This planning application exceeds the deficit of 78 homes and proposes to build 170 dwellings, meaning an additional 92 dwellings would be built in excess of the 5YHLS.

Whilst the tilted balance approach must take effect with the shortfall of 78 dwellings, the additional 92 dwellings must meet the Local Plan and Saffron Walden Neighbourhood Plan (SWNP) policies.

An additional 92 dwellings would breach Local Plan Policy S7 which states "*in the countryside, which will be protected for its own sake, planning permission will only be given for development that needs to take place there, or is appropriate to a rural area.*" The development of 92 dwellings does not need to take place because the 5YHS would be met by the initial 78 dwellings.

Paragraph 11.3.3 of the SWNP states *Saffron Walden has a deficit of public open spaces estimated to be around 107ha* therefore losing any additional open space would be detrimental.

For these reasons SWTC disagrees with the 5YHLS statement that states a '*presumption in favour of sustainable development*' applies because this presumption should only apply to the shortfall which only totals 78 dwellings.

If the application were to be permitted (which as stated in the original objection, SWTC does not believe should be the case whether or not the "tilted balance" is applied) in reliance on the "tilted balance" over-riding the planning policies to which the development is contrary, then more dwellings (92) would be permitted contrary to the Local Plan and the NPPF than would be permitted pursuant to the "tilted balance" (78). On balance therefore we believe that the "tilted balance" should not be applied to this application.