

TOWN AND COUNTRY PLANNING ACT 1990

(AS AMENDED BY THE PLANNING AND COMPULSORY PURCHASE ACT 2004)

Design and Access, Heritage, Landscape and Planning Statement

Version: *FINAL*

Proposal: Application for outline planning permission for the erection of 18 dwellings including provision of access road, car parking and residential amenity space, a drainage pond, and communal open space, with all matters reserved for subsequent approval except for means of access and layout.

Applicant: Rocol Estates Ltd

Site: Grange Paddock, Ickleton Road, Elmdon Essex CB11 4GR

Date: December 2022

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1.0 Introduction and Description of Proposed Development

- 1.1 This statement has been prepared to accompany an application for outline planning permission to erect 18 dwellings with associated car parking and gardens, a drainage pond, and the provision of an area of public open space accessible by all residents of this village.
- 1.2 The means of access to the site would be provided at the northeast end of the site as it joins onto Ickleton Road, close to its junction with Hollow Road.
- 1.3 Included within the application documents is a layout plan, drawing reference BRD/22/014/002. This shows a circular street with the new development fronting onto an amenity green with pond located centrally to these dwellings. The layout plan indicates a mixture of semi-detached and detached properties.
- 1.4 It is expected that there would be a range of dwelling sizes – typically three and four bedrooms. The layout plans show that these dwellings would be two storey in height and each would be provided with substantial private gardens well screened from overlooking owing to separation distances.
- 1.5 This layout shows a singular means of vehicular access from the eastern point with a new access road running into the centre of the site providing a looped access giving vehicular and pedestrian access direct to each property.
- 1.6 In providing the vehicular access from the eastern corner of the site, this would ensure that the existing mature hedgerow along the southern boundary, and adjacent to Ickleton Road, would be retained. This would create an attractive layout conducive to walking within a safe environment to the existing services within the village.
- 1.7 Other elements of the scheme include the provision of a large area of public open space that would be accessed from Ickleton Road and adjoining the west boundary of the proposed developed area. The layout includes an area for children’s play equipment in the north-west corner of the site, away from any existing residential dwellings. These areas can be secured by way of a planning agreement and their maintenance in perpetuity be would part of the management company responsibilities for the wider application site.
- 1.8 Within the centre of the site, it is proposed to provide a surface water drainage basin to ensure that the hard surfacing included within the development does not contribute to excessive spikes in surface water run-off during periods of heavy rainfall. This is considered further below, and in detail within the flood risk/drainage assessment.

1.9 Based on the above key components of the scheme, we suggest that the planning application should be described as follows:

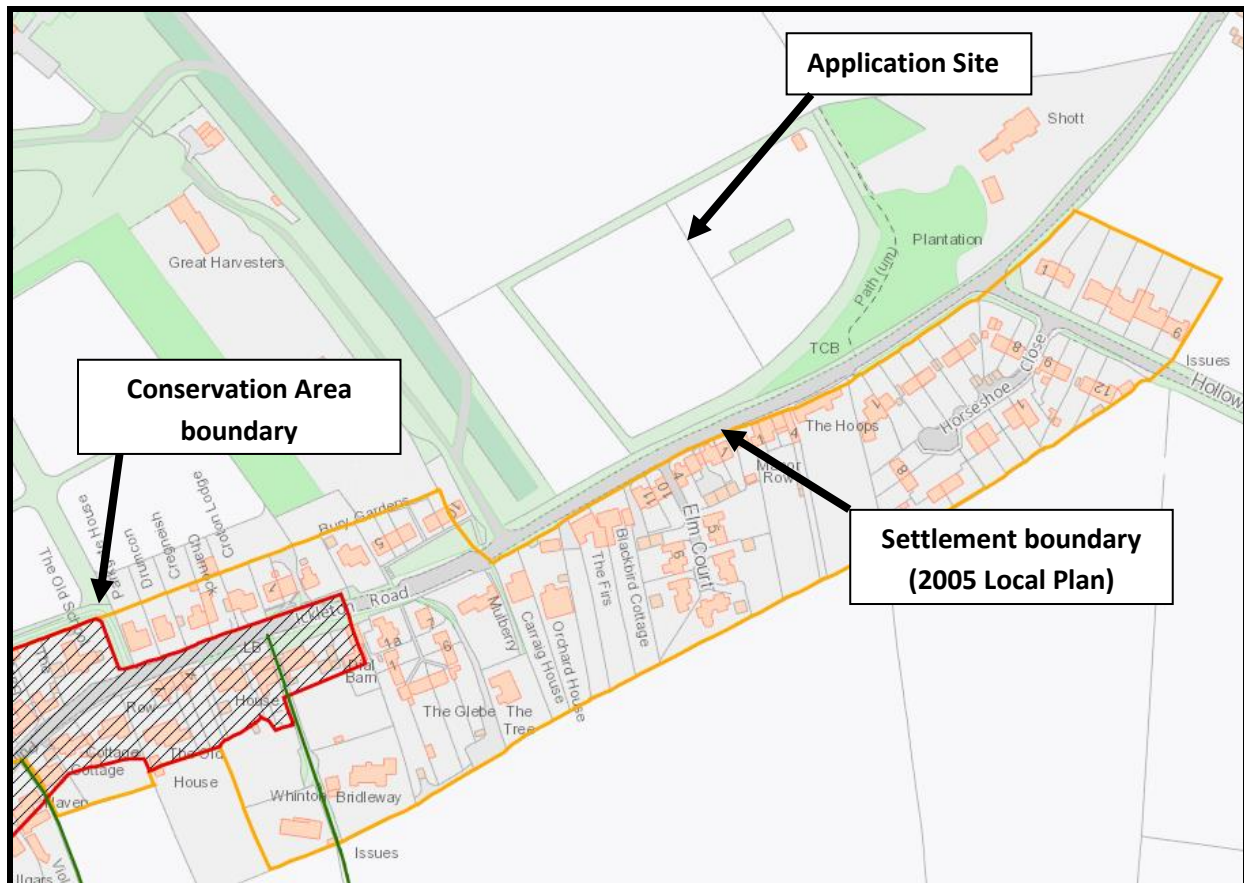
Application for outline planning permission for the erection of 18 dwellings including provision of access road, car parking and residential amenity space, a drainage pond, and communal open space, with all matters reserved for subsequent approval except for means of access and site layout.

1.10 In addition to this statement and its appendices, the application comprises:

- Planning application form
- Biodiversity questionnaire – major applications
- Preliminary Ecological Appraisal
- Arboricultural impact assessment
- Tree Protection Plan
- Flood Risk Assessment and Drainage Strategy
- Transportation Statement
- Drawing no BRD/22/014/001 existing site and location plan
- Drawing no BRD/22/014/002 proposed site plan
- Drawing no BRD/22/014/003 proposed street scene
- Drawing no BRD/22/014/005 existing and proposed site sections
- Drawing no BRD/22/014/007 topographical survey

2.0 Site Description and Location

2.1 As set out within the Adopted Local Plan 2005, the application site is immediately adjacent to the settlement boundary set out for Elmdon:

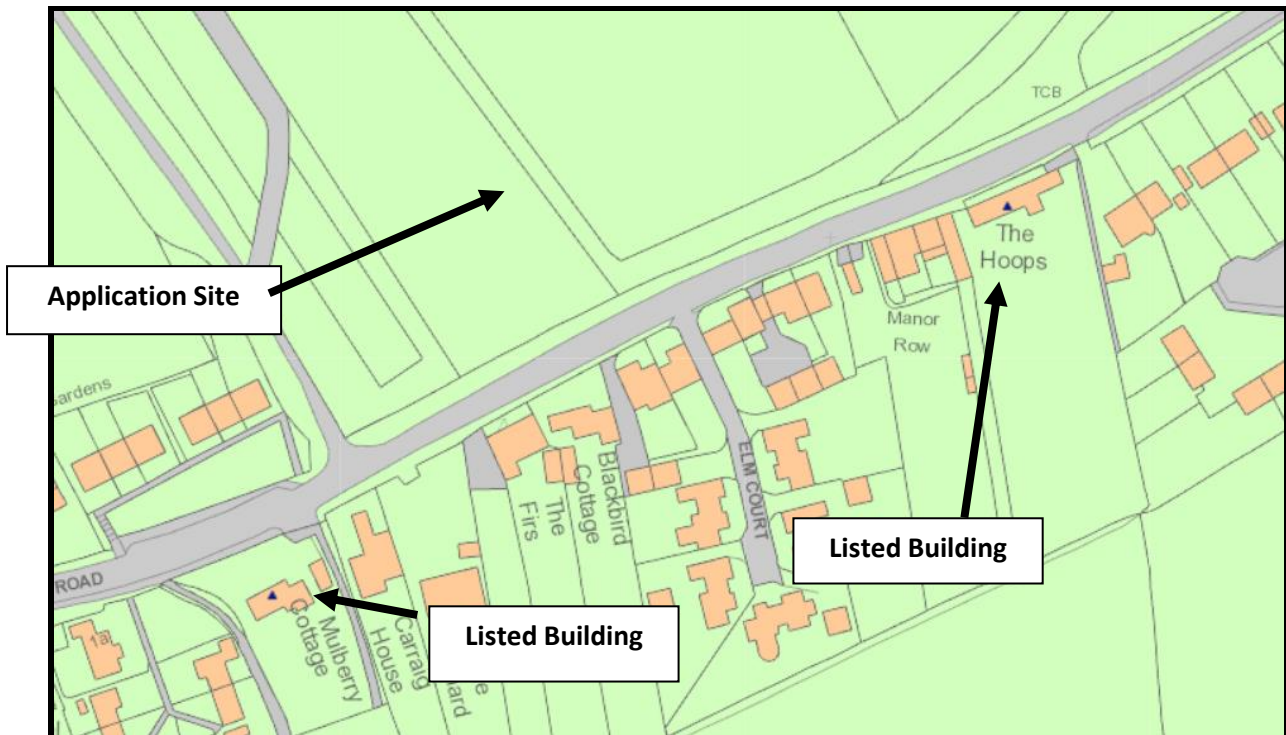


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- 2.2 The relevance of the presently defined 'settlement boundary' nearly 18 years after the adoption of the Local Plan is considered further below.
- 2.3 The application site comprises a broadly rectangular parcel of land adjacent to the northern edge of the existing settlement. It is presently in use as general pasture-land. The site slopes downward towards its southern boundary where there is a natural drainage ditch running along Ickleton Road.
- 2.4 There is presently an existing access into the site via a track adjacent to the western boundary which leads to other dwellings to the north. There is also an indicated informal footpath heading northeast from Ickleton Road passing through the site, along the eastern boundary of the proposed developed area. However, that is not a statutory right of way. The green lines within the above

extract from the LPA constraints map indicate public rights-of-way, and there are none in the vicinity of the application site.

- 2.5 The application site is located on existing farmland that, according to the Natural England Agricultural Land Classification Map (Eastern Region) is very good (i.e. grade 2). It is therefore a site where policy ENV5 of the (and relevant guidance within the NPPF) is applicable; this is considered further below.
- 2.6 As set out within the above local plan extract, the application site is not within or adjoining the village conservation area. With regard to listed buildings, Historic England's online mapping identifies the following in the vicinity of the application site:



- 2.7 Further to the west are other listed buildings including the village church, however the site is remote from its setting. The Council does not identify any other non-listed buildings as having local significance close to the application site. There is no known archaeological interest at the site or the close locality.
- 2.8 Immediately to the east, the main road is designated as a "Protected Lane" within the adopted local plan. Policy ENV 9 considers historic landscapes, including protected lanes and development will not be permitted unless the need for the development outweighs the historic significance of the Lane. It is submitted that because of the location of the development, there would be no impact upon the protected lane and its character.

- 2.9 With regard to ecology, a preliminary ecological assessment has been undertaken and that is considered later in this statement.
- 2.10 The application site is identified as being within Flood Zone 1 i.e. land with the lowest risk of flooding. As this is a 'major' development, the application includes a comprehensive Flood Risk Assessment and Drainage Strategy. These are considered later in this statement.

3.0 Planning History

- 3.1 According to Uttlesford District Council's online records, there are no recorded planning applications directly concerning the land that makes up the application site.
- 3.2 Other applications on land elsewhere, and relevant to the current proposals, are discussed below.

4.0 The Applicant's Case

- 4.1 In summary, it is the applicant's case that this proposal would represent sustainable development that would enhance the viability of existing community facilities and services, and deliver a significant number of new dwellings in the context of a significant shortfall in terms of supply.
- 4.2 It is submitted that, whilst there would be some impact upon the openness of the countryside and intrusion by way of built form, this has to be balanced against the very significant benefits of the proposal. It is considered that because the "*policies which are most important for determining the application are out of date*" then permission should be granted because in this case the limited adverse impacts are not such as to outweigh the benefits of this proposal (NPPF, paragraph 11).
- 4.3 This is set out in more detail below.

Principle of Development

- 4.4 In the context of the adopted 2005 Local Plan, it is accepted that the proposal represents new development beyond the existing defined settlement limits. However, the Council has acknowledged that a contribution to housing supply is a material consideration in the determination of planning applications, and the development, if permitted is very likely to be speedily implemented.
- 4.5 It is also considered that the character of the site and surrounding locality, identified in detail above, means that the development could be accommodated with only a modest impact upon the general character of the area in terms of its openness and landscape.
- 4.6 National guidance for the determination of planning applications is now provided within the National Planning Policy Framework 2021. Paragraph 10 sets out the presumption in favour of sustainable development:

So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development

- 4.7 Paragraph 8 defines the three overarching objectives for the planning system:

a) an economic objective – to help build a strong, responsive and competitive economy;

b) a social objective – to support strong, vibrant and healthy communities; and

c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment.

- 4.8 Also at the heart of the NPPF is the primacy of the development plan. S38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
- 4.9 Local design guides and other SPD, the NPPF and the Planning Practice Guidance are important material considerations in planning decisions. These do not change the statutory status of the development plan as the starting point for decision making but policies of the development plan need to be considered and applied having regard to more up-to-date policies/guidance in the NPPF, Planning Practice Guidance (PPG) and the other material considerations.

Local Plan policy

- 4.10 In terms of the character of the site, and the approach to defining settlements within the 2005 Adopted Local Plan, it is noted that the site is within the countryside. Policy S7 sets out the decision-making framework for development within the countryside. It seeks to restrict development in the open countryside directing new development towards existing settlements.
- 4.11 The policy as it is worded has three main strands. Firstly, it identifies land that is outside of settlements (i.e. through the settlement boundaries within the local plan map it says that the countryside) should be protected "*for its own sake*", and that development should only be permitted where it protects or enhances the appearance and particular characteristics of the countryside within which it is set.
- 4.12 Therefore, it is unambiguously the case that the development of the site would be contrary to policy S7 in that the site is outside of settlement limits. However, as the local plan is out of date for the purposes of the supply of housing (a position that local planning authority accept), the fact that the proposal is contrary to policy S7 has to be weighed against the benefits of the proposal. The NPPF is unambiguous in that any such harm must "significantly and demonstrably" outweigh those benefits if permission is to be refused (para 11d)ii).
- 4.13 With regard to the impact of the proposals, the introduction of built form within otherwise open land is the key consideration.

- 4.14 Other key considerations are that the Uttlesford landscape character assessment identifies the site is being within the – Elmdon Chalk Uplands Landscape (H1) where key features comprise rolling chalk upland landscape of broad ridges and panoramic vistas that contrasts with winding sunken lanes and intimate tree enclosed villages. There is a sense of space and openness with large scale rectilinear field pattern on the uplands.
- 4.15 However, very few of these characteristics are displayed by the application site.
- 4.16 Other observations include the hedgerow boundary forming the southern edge of the application site, with a wooded area to the east of the application site and the developed part of the village to the west, with open arable farmland to the north.
- 4.17 Landscape impact is a subjective process, but the characteristics of the site are highly relevant. In particular, the application site is already defined by existing boundaries to all four sides. The application site does not protrude into the panoramic vistas of this locality and does not impact upon any sunken lane, including the protected lane to the east. The village is not tree enclosed, and the application site does not form part of a "*large-scale rectilinear field pattern*" owing to its much smaller size in relation to those more substantial parcels of arable land.
- 4.18 It is also the case that the spacious nature and low density of the site is that whilst there would be some short-term impact by way of relatively prominent built form, in the longer-term new landscaping could mature to provide a substantial degree of relief.
- 4.19 In terms of the enjoyment of the countryside, it is noted that there are no public footpaths within the vicinity, particularly to the north of the site.
- 4.20 In summary, it is submitted that whilst the wider countryside beyond the application site and the village is relatively attractive countryside, there isn't a degree of unusual special attributes that would give it a more elevated landscape value. For example, none of the landscape is subject to any additional level of protection and there are no major visual effects expected from the development, and the effect on the local landscape would reduce to a modest level in the longer term.
- 4.21 In summary, it is reasonable to conclude that there would be a limited degree of harm arising in terms of landscape character. It is limited because of the proposed site boundary limitations reflecting and respecting existing settlement

boundaries to the site, *and* that there is significant opportunity for naturalised landscaping to reduce the impact of built form.

4.22 The relevance of this to the NPPF paragraph 11 planning balance is considered below.

Layout, Scale and Design

4.23 Policy GEN2 of the 2005 Adopted Plan sets out that development will not be permitted unless its design meets certain criteria. In particular, new built form should have regard to the scale, form, layout, appearance and materials of surrounding buildings.

4.24 In this case, as an outline application, layout details are on drawing BRD/22/014/001. This is intended to show the way in which 18 dwellings could be provided within the site, whilst complying with planning policy requirements to provide private garden areas, car parking, footpath connections, landscaping and public open areas.

4.25 However, and fundamental to the acceptability of the scheme, the layout would have clear and direct regard to the pattern of the settlement. For example, on the south side of Ickleton Road, Horseshoe Close and Elm Court are both cul-de-sacs with development facing onto street frontages creating attractive and enclosed development, providing a secure and well supervised layout.

4.26 As has been set out in detail above, the layout plan demonstrates that an enclosed layout could be provided. Furthermore, the dwellings would be set back from the main road and behind the existing mature hedgerow, which would be further enhanced by way of additional landscaping. This would ensure that those dwellings would not intrude into the street scene or into the outlook of those dwellings on the south side of the main road.

4.27 The layout demonstrates that there is sufficient room within the site for a spacious residential development. Every property has a private rear garden that is of a good size and proportions. The proposed layout also includes areas of open space and new landscape planting. Around half of the site would therefore be laid out as green open space, either as gardens or in public areas.

4.28 The proposed development would include areas of open space. The proposed development would be built at a low density, which would ensure that there

would be ample space within the site for the provision of large private back gardens.

- 4.29 *Management of communal areas.* Areas of landscaping which do not fall within the curtilage of individual properties would be maintained by a management company, which would be funded by the residents of the new development by means of a service charge. This would include the children's play area and the community area area to the west, thus ensure that these spaces remain well maintained in perpetuity.
- 4.30 *Detailed design and layout.* there would be an opportunity to create attractive well-designed properties of two-storey height with traditional architectural features and building spans to ensure that the rural vernacular of the village is appropriately respected. There are no particular constraints on the design of the proposed dwellings.
- 4.31 *Lighting.* There would be a need for some lighting within the development, for security and safety reasons. However, the lighting that would be used would be carefully considered, with the intention of it being the minimum necessary to meet this purpose, and to minimise light spillage outside of the site.
- 4.32 *Safety and Security.* The proposed development can be designed to ensure that public spaces within the site would feel safe, by orientating housing to overlook these areas. The public parts of the site would be well maintained, by a management company, and so would not be neglected. This would further reduce the likelihood of crime and anti-social behaviour.
- 4.33 In summary therefore, it is considered that the detailed submissions have the potential to comply with the key design policies of the adopted local plan including GEN2 and also the requirements within the NPPF and National Design Guide 2021 to have clear regard to the character and form of existing buildings and settlements.
- 4.34 In this regard therefore it is considered that there would be no harm arising in terms of the design and layout of the dwellings having accepted the principle of development of this site. This is also an important factor in the balance with regard to paragraph 11 d) of the NPPF.

Transport, Access and Parking

- 4.35 Policy GEN1 requires that new development must have safe access to the main road network. Included with the applications documents is a comprehensive transportation statement.
- 4.36 The site's access is shown on the proposed site access. This drawing sets out the way in which the access road and footpaths would enter the site, and this is reflected in the Site Plan and Layout.
- 4.37 Pedestrian access would be from Ickleton Road. The proposed access would provide pedestrian access to the footway which runs along the south side of Ickleton Road.
- 4.38 Most significantly however is that site is within very easy walking distance of the village centre. It is therefore the case that the development facilitates the use of alternative means of transport for access to local services. The presence of local services would also negate the need for residents to travel by car for some day-to-day functions. This includes the church and village hall.
- 4.39 Policy GEN1 (part e) seeks to "*encourage movement by means other than driving a car*". The proposal can encourage future occupants of the dwellings to access services within the village by foot or bicycle.
- 4.40 In that regard, we would draw attention to a recent appeal decision in Manuden (copy attached as appendix A). The inspector noted that: *Manuden has access to a comparatively good range of day to day services, including a community centre, primary school, church, public house, and a range of sporting facilities. (para 36)*
- 4.41 Also, the Inspector noted: *The site is well located in order to access services within the village and includes an indicative layout that demonstrates that careful thought has been given to pedestrian linkages with the wider village. This includes upgrading the footpath within the site to provide separate access closer to the village for pedestrians and cyclists. (para 40)*
- 4.42 The Inspector also noted the opportunities for cycling and that such would reduce car dependence by a modest degree. The Inspector concluded that, given the proximity to other settlements and services available in the village, it was appropriate to conclude that the proposal encourages movement by means other than driving a car, and therefore accords with policy GEN1(e).

- 4.43 As would be set out at reserved matters stage, the dwellings would be designed to lifetime homes standards and therefore capable of being occupied by persons with varying mobility. The dwellings therefore could be adaptable over the lifetime of future occupants. The gentle changes in ground level at the site facilitates ease of access to main front doors.
- 4.44 The Council has adopted as supplementary planning guidance Essex County Council's Parking Standards - Design and Good Practice - September 2009. The Council has therefore adopted an "originator/destination" standard for car parking. Dwellinghouses are originators and therefore according to the standard warrant car parking to be provided on a minimum basis. The proposed layout demonstrates that more than adequate parking would be provided for the dwellings.
- 4.45 *Cycle parking* could be accommodated in a number of different ways within the new development including within a garages and sheds or in communal storage areas. Where cycle parking is to be located in garages, they will be of sufficient size to accommodate bicycles in addition to cars, and they should be designed to allow for easy access without obstruction by bins or cars.
- 4.46 *Inclusive access*. The application proposals have been developed at this outline stage to make provision for people with disabilities including suitable highway and pedestrian access for people with disabilities. All new housing would be accessible via pavements, which would be built to adoptable standards, as shown in the proposed layout.
- 4.47 As would be set out at reserved matters stage, the dwellings would be designed to lifetime homes standards and therefore capable of being occupied by persons with varying mobility. The dwellings therefore could be adaptable over the lifetime of future occupants. The gentle changes in ground level at the site facilitates ease of access to main front doors
- 4.48 *Refuse*. It is envisaged that bins for the houses would be stored either in garages or back gardens, or within secure storage areas at the front of the properties. Sufficient space would be provided in each of these areas for the storing of disposable, recyclable and organic waste. Bins would be wheeled to the street by residents on collection day.
- 4.49 The submitted transportation statement identifies the availability of public bus services but also that the traffic generated by 18 residential units would have an

imperceptible impact upon the local road network. Furthermore, there have been no accidents within close proximity to the site and adequate visibility splays could be provided having regard to the typical speed of vehicles travelling along this road.

- 4.50 In summary therefore, it is submitted that the proposals would not result in any harm with regard to transport, access and car parking. This is a further relevant consideration in terms of the NPPF paragraph 11 d balance.

Heritage

- 4.51 Policy ENV2 of the adopted local plan identifies that development affecting a listed building (or other heritage asset) should be in keeping with its scale, character and surroundings. In summary, the policy acknowledges that the setting to a listed building will evolve over time.
- 4.52 There are no Scheduled Monuments, or Registered Parks and Gardens within or immediately adjacent to the proposed development site, and therefore this application will have no impact upon any of those Designated Heritage Assets or their settings.
- 4.53 Legislation pertaining to buildings and areas of special architectural and historic interest is contained within the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66(1) of the 1990 Act states that: '....in considering whether to grant planning permission 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 its setting or any features of special architectural or historic interest which it possesses.'
- 4.54 In the 2014 Court of Appeal judgement in relation to the Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG, 1 Lord Justice Sullivan held that:

[2014] EWCA Civ 137, Para. 24: Parliament in enacting section 66(1) did intend that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.

- 4.55 In a second 2014 Court of Appeal judgement in relation to Jones v Mordue, SOSCLG and South Northants Council, 2 Lord Justice Sales stated with regard to the setting of Listed Buildings, where the principles of the NPPF are applied (in particular paragraph 134, now paragraph 196 of the revised NPPF), this is in keeping with the requirements of the 1990 Act.
- 4.56 The NPPF is unambiguous in terms of the expectations for the assessment of the impact of development upon heritage assets.
- 4.57 The strategic policy approach to the historic environment is set out in Section 16 of the NPPF, which directs Local Planning Authorities to set out 'a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats' (NPPF (2021), para. 190). The aim is to ensure that LPAs, developers and other stakeholders adopt a consistent approach to their conservation and to reduce complexity in planning policy relating to proposals that affect them.
- 4.58 Paragraph 194 of the NPPF (2021) states that '*In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.*'
- 4.59 Paragraph 195 of the NPPF (2021) instructs Local Planning Authorities to '*identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise.*'
- 4.60 Paragraph 199 of the NPPF (2021) states that '*when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*'
- 4.61 Paragraph 200 of the NPPF (2021) explains that '*any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing*

justification'. To reflect that, paragraph 201 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*'.

4.62 In addition to the effects on designated heritage assets, paragraph 203 of the NPPF (2021) states that '*the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset*'. Nonetheless, there are no nondesignated assets in the vicinity of the application site.

4.63 Having regard to the primacy of the development plan, as set out above, the relevant policy is the ENV2 which states:

Development affecting a listed building should be in keeping with its scale, character and surroundings. Demolition of a listed building, or development proposals that adversely affect the setting, and alterations that impair the special characteristics of a listed building will not be permitted. In cases where planning permission might not normally be granted for the conversion of listed buildings to alternative uses, favourable consideration may be accorded to schemes which incorporate works that represent the most practical way of preserving the building and its architectural and historic characteristics and its setting

4.64 Furthermore, the NPPF identifies that a heritage statement should be proportionate in scale in relation to the likely impact and the extent of the development proposed.

4.65 Having had regard to the pattern of the proposed development, which reflects the existing settlement pattern, it is considered that the limited additional number of dwellings would not impact upon the overall character and setting to the wider conservation area which is clearly separated from the application site by a range of other buildings.

4.66 With regard to listed buildings, the above extract from the Heritage England online mapping identifies two listed buildings within the proximity of the application site. Clearly, the erection of dwellings on the site would result in

some change to the wider setting to that listed building. However, the glossary to the NPPF clearly acknowledges that change is the norm:

Setting of a heritage asset: *The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*

4.67 The listing description for the closest dwelling (The Hoops, Grade II), to the south of the application site states as follows:

C18 timber-framed and plastered house with lean-to additions at the east and west ends. Renovated. Two storeys. Three window range of double-hung sashes with glazing bars. Modern gabled central porch with slate roof and a 6-panel door. Roof thatched, half hipped at east and west ends, with a central chimney stack.

4.68 In this case, the low density of the site and the dominance of landscaping within the proposed scheme means that there would be little change in terms of the interpretation of the listed buildings identified above. In particular, the verdant northern edge of the main road with this mature hedge, that would be enhanced by further landscaping, would mean that for most passers-by the setting to that heritage asset would not change.

4.69 The LPA through its other decisions appears to acknowledge that change may take place without causing specific harm (decision notice for UTT/22/0618/OP).

4.70 In summary, and in particular in the context of the provisions of paragraph 11d of the NPPF, it is the case that any impact upon those heritage assets (that it may be concluded would arise) would not provide ".....a clear reason for refusing the development proposed...."

4.71 Furthermore, it is submitted that there are no other matters that might have an adverse impact of such significance that would outweigh the public benefits of increasing housing supply, particularly in a policy vacuum created by the absence of an up-to-date local plan.

4.72 Therefore, it is submitted that the proposals have a neutral impact in the planning balance with regard to heritage matters.

Ecological Issues

- 4.73 Policy GEN7 – Nature Conservation - of the adopted plan sets out that development that has a harmful effect on wildlife will not be permitted. Where a site provides a habitat for protected species, a nature conservation survey will be required, and the Council recognises that any mitigation that might be identified through this survey can be secured through planning conditions.
- 4.74 The application site comprises land used for horse grazing/exercise and is located adjacent to arable and residential land uses in a village edge location. As such, the site and surrounds are/have been subject to management/disturbance as would be reasonably expected in such a land use context.
- 4.75 Also, the mature hedgerow along the front boundary would be retained and an existing access would provide access. Therefore, it is submitted that there would be no adverse impact upon any ecological interest.
- 4.76 To support that conclusion a Preliminary Ecological Assessment has been undertaken. A copy of this is included with the planning application. In summary, it concluded that no ecological interest would be harmed by this proposed development.
- 4.77 In summary therefore no harm would arise to natural habitats, subject to appropriate controls. This therefore counts as a neutral factor in arriving at the planning balance, as considered below.

Trees

- 4.78 Policy ENV3 of the adopted local plan identifies that the loss of groups of trees and fine individual tree specimens will not be permitted unless the need for the development outweighs their amenity value.
- 4.79 There are trees within and adjoining the application site and therefore the applicant has commissioned an arboricultural impact assessment. Also included is a tree protection plan. This identifies the limited range of trees that would be removed to facilitate the access. In summary, the vast majority would be retained and the group value and character of this small woodland adjacent to the development boundary and to the village will ensure that the verdant setting to both the existing village entrance and to these dwellings would be retained.

- 4.80 In summary therefore it is submitted that there would be no harm to trees that could not be overcome by way of replacement planting and therefore proposal is compliant with policy ENV3.
- 4.81 With regard to the planning balance, the impact upon trees is therefore of neutral impact in the planning balance.

Utilities statement

- 4.82 As required by the council's local validation checklist, and to comply with policy GEN6 of the Adopted Local Plan (infrastructure provision to support development) the statement sets out a description of the availability of utilities to serve the development.
- 4.83 In summary, there are no utilities running across the site that would be an impediment to the development proceeding. This would be an electric only site and it would utilise existing mains services available from Ickleton Road.
- 4.84 With regard to sewage disposal, attached as appendix E to the flood risk assessment and drainage strategy are the Thames water sewer records.
- 4.85 The site can also be provided with connections to the BT communications network, including the provision of broadband speeds at a similar level as elsewhere in the village.
- 4.86 Therefore, the proposal is compliant with the GEN6 and therefore this is of neutral weight in the planning balance.

Flood risk and drainage

- 4.87 Policy GEN3 sets out that outside of flood risk areas development must not increase the risk of flooding through surface water run-off and a flood risk assessment will be required to demonstrate this. Despite the age of the local plan, this reflects up-to-date policy within the NPPF.
- 4.88 Therefore, the application documents include a comprehensive Flood Risk Assessment and Drainage Strategy. This report demonstrates that the site is not at risk of flooding from any source.
- 4.89 This confirms that site is entirely within flood zone 1 and is therefore at low risk of fluvial flooding and the wider strategic flood risk assessment does not indicate any significant fluvial flood risk at this site.

- 4.90 The report notes that apart from surface water run-off there are no other factors that would contribute to the risk of flooding on the site and beyond. Therefore, the proposals have been designed to incorporate the management of surface water run-off. This is principally by way of the retention pond towards the south-east corner of the site, close to its lowest level.
- 4.91 In simple terms, during periods of heavy rainfall this fills up and releases the water to the adjoining ditch at a steady rate suited to the capacity of that ditch. The report sets out the details behind the design, including capacity, of that retention pond.
- 4.92 Other features to be incorporated in the scheme would be rainwater harvesting and water butts within the curtilage of each dwelling to enable such to be used for local irrigation within private gardens, for example.
- 4.93 With these details implemented therefore the case that the proposal would not materially increase the flow of water into the adjoining watercourse and therefore the development would not contribute to flooding. This matter is, therefore, also neutral in the planning balance.

Neighbour Amenities

- 4.94 Policy GEN2 requires that new development should *"not have a materially adverse effect on the reasonable occupation and enjoyment of a residential or other sensitive property, as a result of loss of privacy, loss of daylight, overbearing impact or overshadowing"*.
- 4.95 There will inevitably be some disturbance during construction work. However, it is proposed that a detailed construction management plan can be prepared as part of the reserved matters submission. This could be secured by way of planning condition and would be the appropriate means to manage pollution such as dust and noise during construction work.
- 4.96 Once built, the proposals would result in the introduction of built form to the rear of the existing properties on the north side of Ickleton Road. However, as indicated in the application drawing for site layout, these would be distant and, as set out in this section drawing, well screened by the existing hedgerow. Therefore, it is considered that the proposed dwellings would not cause direct overlooking or any loss of light or outlook. Given the spacious layout and the orientation of the proposed dwellings in relation to the existing properties, then additional shadowing arising from the proposed dwellings would be minimal.

4.97 In terms of the planning balance, this also therefore has a neutral impact.

Affordable Housing

4.98 Policy H9 of the adopted local plan identifies that the councils seek to negotiate on a site-to-site basis an element of affordable housing of 40% of new dwellings. Furthermore, policy H10 identifies that for larger schemes a significant portion of market housing comprising small properties should be provided.

4.99 Despite the age of the local plan, more recent studies in preparation for the now abandoned replacement local plan also identify that affordable housing comprising 40% of proposed dwelling should be provided. In this case, the applicant is willing to provide seven dwellings as affordable properties to be managed by one of the Council's preferred Registered Providers (40% of 18 = 7.2, rounded down). This could be secured by way of a Section 106 agreement.

4.100 The Council's more recent policy requirements include that 5% of dwellings should be fully wheelchair accessible and 5% should be bungalows. The indicative layout demonstrates that this could be achieved.

4.101 In terms of the planning balance, given the acute shortage and need for affordable housing, it is considered that this is a positive factor to take into account.

Best and most versatile agricultural land

4.102 The proposal would result in the loss of some either grade 2 or grade 3 agricultural land which is defined as being best and most versatile (BMV). Policy ENV5 of the adopted local plan identifies that development of such land will only be permitted "where opportunities have been assessed for accommodating development on previously developed sites or within existing development limits". The NPPF identifies that the economic and other benefits of the best and most versatile and agricultural land should be recognised when taking planning decisions.

4.103 Although a detailed assessment is not included with this application, the fact that the Council does not have an adequate supply of housing land means that, by default, there are no other suitable alternatives comprising either previously

developed sites or within existing villages available to meet the demand for housing in the medium-term.

- 4.104 In terms of its economic contribution, this is a relatively small parcel of land in the context of the overall countryside. Also, it is inevitable that greenfield sites of a similar agricultural value will come forward through the local plan process. If this site is permitted, it would simply reduce the amount of *other* agricultural land that would be required. It is also the case that much of the district comprises high-quality agricultural land and therefore there is little flexibility in terms of the location of new development in that regard.
- 4.105 Therefore, it is submitted that the proposal is not contrary to policy ENV5 or to the objectives of paragraph 174 of the NPPF, and therefore the impact on agricultural land is of neutral weight in the planning balance.

Community Facilities

- 4.106 Although there is no policy requirement to provide such, it is proposed to include within the scheme and area of communal open space for use by all villagers.
- 4.107 It is considered therefore that this would be a positive factor in terms of the planning balance.

The planning balance

- 4.108 Given the age of the local plan it is unambiguously the case that the tilted balance that is set out within paragraph 11 D of the NPPF is the appropriate basis for decision-making. In other words, the question for the decision maker is: do any adverse impacts of permitting the development significantly and demonstrably outweigh the benefits?
- 4.109 The key benefit in this case is the delivery of 18 dwellings, 40% of which would be affordable either by way of rent or reduced sale price. The local planning authority has previously accepted that it has had a significant shortfall in terms of identified housing land, and was stating in recent decisions that it had only a 3.11 year supply.
- 4.110 However, it has more recently published an updated statement, which is attached as appendix D to this planning statement. It continues to acknowledge that is a shortfall in the five year housing land supply target.

Whilst it will claim that this is a small shortfall, it is nonetheless a shortfall, and government guidance is very clear that these are minimum levels.

- 4.111 Furthermore, this statement is already eight months out of date, and there is undoubtedly considerable uncertainty as to the implementation of some of these schemes, particularly for those some way ahead. Additionally, maintaining the five year housing land supply relies upon the delivery of further permissions.
- 4.112 In that regard, the recently published housing delivery test: 2021 measurement (January 2022 DLCH) identifies that over the three-year period including 2018/19 through to 2020/21 less than the expect number of homes required were actually delivered. Although only a marginal shortfall, it is nonetheless a shortfall and demonstrates that every opportunity for the supply of new dwellings should be embraced particularly where the balance in favour of the scheme is emphatic.
- 4.113 There are no impediments on the development proceeding (such as land ownership), and therefore the scheme would very rapidly lead to the availability of additional housing for the local community.
- 4.114 It is submitted that this is a compelling benefit. The delivery of housing is a top priority for government both nationally and locally and widely recognised as an important issue for communities generally.
- 4.115 It is in that context that the limited harm identified above should be considered. The *only harm* that cannot be mitigated would be the introduction of built form upon an otherwise open field and it has been demonstrated that this would have only a "minor" impact upon landscape character, in the longer term. All of the other factors considered above are either neutral or positive factors in favour of the scheme.
- 4.116 Nonetheless, and as a result of that harm, it can be said that the proposals would conflict with policy S7. It is accepted that there would be some harm arising by way of the loss of the open character of this site and therefore the landscape setting of the existing village. However, this loss of countryside and intrusion of built form is inevitable in locations where it had not been planned for there to be such impact. This is because the LPA does not have a strategic plan for the supply of land either in terms of quantum or locality, and therefore it is inevitable that in order to meet the demand for the supply of housing this will result in some loss of countryside with associated visual harm – harm that,

in any event, must always be balanced against the benefits of the proposal. In that regard it is submitted that only limited weight should be given to the fact that the proposal is contrary to the letter of policy S7 of the ULP with regard to the protection of the visual character of the countryside.

4.117 This approach is reflected in a recent appeal decision. Attached as Appendix B is an appeal decision granting planning permission for the erection of 45 dwellings on a parcel of land immediately to the south of the village of Henham (LPA ref UTT/20/0604/OP and PINS ref APP/C1570/W/21/3272403). That site was also beyond settlement and the Inspector concluded that there would be an inevitable impact upon landscape character.

4.118 The Inspector *“found that even with the mitigation measures put forward by the appellant there would be harm to the character and appearance of both the village of Henham and the wider area. This harm goes beyond that which would of necessity result as the development of greenfield land for housing due to the location of the site and its topography..... As such, I conclude that, overall, there would be a moderate degree of harm to the character and appearance of the village of Henham and the wider area.”*

4.119 However, the Inspector also noted that there was a significant shortfall in the supply of housing land and, therefore, this means that the policies most important for determining that appeal were deemed to be out of date (para 115).

4.120 The Inspector provided more detail within subsequent paragraphs and reached the conclusion within paragraph 119:

“....On the basis of the evidence I have heard, including the numerous appeals to which I have been referred, and the particular circumstances of the appeal before me, for 45 dwellings at the edge of a lower tier settlement as defined by the LP, I conclude the conflict with Policy S7, with reference to it defining land outside of the settlement strategy of the plan, should be accorded limited weight.” (Emphasis added)

4.121 With the present appeal site, a similar conclusion can reasonably be derived. The appeal site is proportionately similar in scale to the Henham site, and Great Sampford is in the same position within the settlement hierarchy i.e. they are both within the list of relevant settlements to which policy H3 (regarding infill) of the adopted local plan applies. In other words, policy H3 recognises that those villages both have similar levels of sustainability in terms of the provision

of services. The policy contains no cap on growth or any limit on the scale of proposals which may come forward at any of the settlements.

4.122 The Henham Inspector acknowledged the harm to the character and appearance of the wider area and that the occupants would not have appropriate access to facilities without being dependent on the private car (paras 120 and 121). The Inspector then determined that with regard to paragraph 11d:

126. Limb di) is not engaged as there are no relevant areas or assets of particular importance that provide a clear reason for refusing the development. Therefore, I must consider whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

4.123 The Inspector then took an overall approach to the planning balance and whilst acknowledging the conflict with specific policies, concluded that the benefit of the new dwellings should carry significant weight and also that significant weight should be given to the provision of affordable housing along with a net gain in biodiversity. As acknowledged by the council's external adviser, this appeal scheme at Great Sampford would also provide biodiversity net gain.

4.124 In summary, the Inspector concluded that the harms identified were outweighed by the benefits and therefore concluded that the material considerations relevant to the appeal outweighed the limited conflicts with the development plan (para 135).

4.125 It is also of note that in submissions made by the local planning authority in connection with that Henham appeal, the LPA also accepted that some development in the district will take place outside development limits and within areas of the countryside (our appendix C). For example, at paragraph 5.34 it is stated:

"The Council does not regard development boundaries as inviolate and as a matter of principle, sustainable development is not resisted simply because it is located in the countryside..... There is no 'in principle' objection to development in countryside nor is one being advanced at this appeal."

4.126 The proof of evidence also quite rightly pointed out that this does not mean that there is a carte blanche for any development within the countryside, however it was also recognised that "....., it is a matter of planning judgement as to the weight that is given to the respective policies and the merits of the case."

- 4.127 It is of course the case that every application is for consideration on its own merits, however the point to be made is that it is well established that just because there is conflict with the development plan it does not automatically follow permission should be refused.
- 4.128 For all of the reasons set out elsewhere in this statement, it is submitted that the benefits of the proposal i.e. the provision of market and affordable housing along with community facilities, including public open space, outweigh, firstly, the conflict with the development plan and, secondly, the limited harm to the landscape.

5.0 Conclusion

- 5.1 There is a clear presumption in favour of sustainable development. The proposal does represent such sustainable development as it would provide 18 new dwellings, for which there is unambiguously a policy need, and in a location which has good access to local services and in particular many of which would be accessible on foot.
- 5.2 It has been set out above that there would be only very limited harm from the development by way of loss of open countryside. Although this conflicts with policy S7, that policy should not be given significant weight given the age of that policy, and that there is a significant shortfall in terms of housing land supply which means that inevitably some greenfield sites will come forward for development.
- 5.3 Therefore, when combined with the wide-ranging benefits of the scheme, including housing supply and the support for local community facilities, and the opportunity to deliver biodiversity net-gain, then the planning balance falls heavily in favour of permitting this development.

END