



Decision Notice and Statement of Reasons

Site visits made on 5,18 November and 14,15 December 2022

Hearing held on 12 December 2022

By Grahame Kean B.A.(Hons) Solicitor

A person appointed by the Secretary of State

Decision date: 11 April 2023

Application Reference: S62A/2022/0012

Site Address: Land East of Station Road, Elsenham

- The application is made under s62A Town and Country Planning Act 1990.
 - The site is located within the administrative area of Uttlesford District Council.
 - The application dated 30 September 2022 is made by Bloor Homes Ltd and Gillian Smith, John Robert Carmichael Smith, Robert Giles Russell Smith and Andrew James Smith (Applicant)
 - The development proposed is: outline planning application with all matters reserved except for the primary means of access for the development of up to 200 residential dwellings along with landscaping, public open space and associated infrastructure works.
-

Decision

1. Outline planning permission is granted with all matters reserved except for the primary means of access for the development of up to 200 residential dwellings along with landscaping, public open space and associated infrastructure works, subject to the conditions in the attached Schedule.

Statement of Reasons

Procedural matters

2. The application was made pursuant to s62A Town and Country Planning Act 1990 by which applications can be made directly to the Secretary of State (SoS) where a local authority has been so designated. Uttlesford District Council (Council) has been designated for major applications from 8 February 2022.
3. A screening opinion was requested from the Council by the Applicant under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (2017 Regulations). As an urban development project it falls within paragraph 10(b) of Schedule 2 to the 2017 Regulations: the proposed development would exceed the thresholds of more than 150 dwellings and the overall area of the development would exceed 5 hectares.

4. However, the site is not wholly or partly in a “sensitive area” as defined by paragraph 2 (1) of the 2017 Regulations. Having regard to the criteria to be considered in determining whether the proposed development would be likely to have significant effects on the environment, the impacts are likely to be confined mainly to Elsenham.
5. The scale of the proposal would require local infrastructure enhancements and result in financial and other benefits to existing and future local communities. There would be localised effects on the site and surrounding area, either alone or cumulatively with other development. However I am satisfied that with the implementation of appropriate mitigation measures, the proposed development could be implemented without likely significant effects on the environment. Therefore the requirements of the 2017 Regulations have been complied with.
6. On 5 December 2022, on behalf of the SoS, I published an Issues Report, prepared under the provisions of the Town and Country Planning (Section 62A Applications) (Hearings) Rules 2013. This included a description of the development, consultation details and material considerations, and explored the main issues to be considered in relation to the application. In addition to that report, I set out an agenda which included discussion of draft conditions and the s106 obligation proposed by the applicant. The conditions and s106 obligation were discussed at the hearing on a without prejudice basis.
7. I carried out unaccompanied site visits on 5, 18 November and 14 and 15 December 2022. They included the site and surrounding area, all relevant roads including Grove Hill junction at Stansted Mountfitchet and its environs, and a bird’s eye view of Coopers End roundabout from a nearby hotel; the listed waiting room building on the rail station platform; the listed Pennington Hall on Henham Road; the public footpaths in the area including to the immediate north of the site; and the CoE primary school at Elsenham during arrival and departure times.
8. I held a public Hearing on 12 December 2022 at the Council’s offices in Saffron Walden, attended by members of the local and Parish Councils, officers of the Council, and the applicant.
9. The Council considered the proposal at its Planning Committee meeting on 23 November 2022. The minutes were approved at the following meeting of the committee on 14 December 2022. Members were in general agreement that the site was inappropriate and not suitable for further development due to the sporadic nature of the development in the area which lacked a master plan as a whole; the cumulative impact on highways; concerns regarding the proposed three-storey and two-and-a-half storey height of the homes; insufficient pedestrian access; lack of amenity space; and the lack of mitigation of harms associated with the scheme. Other observations were made in the officers’ report that have been fully considered. The site also lies within the area of Henham Parish Council (HPC) which at its meeting on 6 October 2022 resolved to object to the application and supplied detailed representations including on traffic and transport matters.
10. The applicant submitted further information in response to consultation responses, including on a number of highways matters and a technical note to address concerns raised by Essex County Council (ECC) as lead local flood

authority. By the end of the consultation period ECC had provided an interim view on the acceptability of the proposal in highway terms and subsequently supplied written representations as to the likely cumulative residual impact on the Grove Hill junction and Stansted Mountfitchet which were published and available to see along with the other consultation responses. All further information was published on the government web site and available for comment up to the hearing date.

11. After the hearing a certified copy of a section 106 obligation together with a side letter, was forwarded to the Planning Inspectorate in accordance with the timetable set at the hearing and published on the web site. Network Rail made a late submission dated 2 February 2023 which was consulted upon and representations received and considered. The documents submitted are available on the government web site.
12. All written and oral representations were considered in reaching my decision and I acknowledge the very many written representations made by local residents and interested persons. The application has been determined on the basis of the revised and additional documents and drawings.

Background

Planning history

13. There is no planning history directly relevant to the proposal. Application Ref. UTT/13/0808/OP was a proposal (which I refer to as the 800-dwelling scheme) for outline permission except access, for up to 800 dwellings, employment uses, retail uses, primary school, health centre use, community buildings, changing rooms, access roads including access points to B1051 Henham Road and Old Mead Road, and a link road at Elsenham Cross between the B1051 Henham Road and Hall Road, and other associated infrastructure, and landscaping. The application was refused on 26 November 2013 and dismissed on appeal on 25 August 2016.
14. Application Ref UTT/17/3573/OP was refused outline permission but granted on appeal on 22 December 2020 under Ref APP/C1570/W/19/3243744 for residential and associated development on land immediately south of the present application site (which I refer to as the Phase 1 development).
15. Permission for the Phase 1 development was with all matters reserved except for access, for: up to 350 dwellings, 1 no. primary school including early years and childcare setting for up to 56 places, open spaces and landscaping including junior football pitch and changing rooms, access from B1051 Henham Road with associated street lighting and street furniture, pedestrian, cycle and vehicle routes. pedestrian and cycles link to Elsenham Station and potential link to Hailes Wood, vehicular and cycle parking, provision and/or upgrade/diversion of services including water, sewerage, telecommunications. electricity, gas and services media and apparatus, on-plot renewable energy measures including photo-voltaics, solar heating and ground source heat pumps, drainage works, sustainable drainage systems and ground and surface water attenuation features, associated ground works, boundary treatments and construction hoardings. Approval of reserved matters was granted on 1 June 2022 (layout, scale, appearance, and landscaping).

Planning policy and legal framework

16. Decisions on planning applications are determined in accordance with the development plan, unless material planning considerations indicate otherwise. The development plan includes the Uttlesford District Local Plan 2005 (LP). The emerging local plan remains at a formulative stage and consultation is planned for summer 2023. There is no confirmed timetable for its production and eventual adoption, therefore it has very limited weight.
17. The National Planning Policy Framework 2021 (NPPF) contains national planning policies and is an important material consideration. Its central aim is to achieve sustainable development: economic, social, and environmental. Planning Practice Guidance (PPG) supports the NPPF. There is an increased emphasis on good design as set out in the latest version of the NPPF.
18. A list of relevant LP policies and Supplementary Planning Documents (SPD) were published on the government web site and referred to in the Issues Report. A consultation response from the Council's urban design officer suggested that the Council's policy document "Building for a Healthy Life" (BHL) was an SPD, omitted from the list, but that is not the case. An SPD, whilst a non-statutory document can form part of the local development framework. It generally carries more weight because it has gone through a statutory process of consultation with the local community and is specifically underpinned by one or more policies in the development plan, thus legitimising its detailed guidance on how development plan policies will be implemented. Thus for example, the Essex Design Guide Urban Place Supplement (UPS) 2007 is an SPD that carries weight accordingly, although it is somewhat dated.
19. That said, BHL is a design code to help people improve the design of new and growing neighbourhoods. As a government-endorsed standard it has been adopted by the Council in 2021 as other planning guidance. Therefore, it is also a relevant planning consideration, not least due to its recent provenance, and as such is capable of informing decisions on planning applications. It is underpinned by LP Policy GEN2, which expects new development to (a) be compatible with the scale, form, layout, appearance and materials of surrounding buildings; (b) safeguard important environmental features in its setting, enabling their retention and helping to reduce the visual impact of new buildings or structures where appropriate; and (c) provide an environment that meets the reasonable needs of all potential users.

The application site and surroundings

20. The site is roughly rectangular in shape, on the north-eastern edge of the settlement and on the eastern side of the London to Cambridge railway line, with Elsenham Station and station car park close by the north-west boundary of the site. Old Mead Road runs by the station car park entrance and down to the controlled level crossing where vehicles and pedestrians can get across the railway line. The railway station contains the grade II listed waiting room on its eastern platform and a pedestrian bridge over the line to both platforms.
21. The application site is c11ha in size, including the access to Henham Road to the south. It is in agricultural use as an arable field and generally level with a

slight decline from north-east to the west. To the north and east of the site are agricultural fields. To the south is the Phase 1 development in the course of construction. To the north beyond the station car park are employment buildings at Old Mead Road. A public footpath (FP15) runs more or less parallel and close to the northern boundary, linking Old Mead Road to Mill Road. This is the route of the 'Farmers Line', the former Elsenham and Thaxted light railway.

The proposal

22. The outline application proposes up to 200 new residential dwellings with an indicative housing density of 33 dwellings per hectare, providing 40% affordable housing (80 affordable homes). The scheme would integrate with the adjoining Phase 1 development and access is the only matter not reserved for subsequent approval. The primary access would be from Henham Road via an all-movement priority controlled simple T-junction, whereby access to the site would be from the south to integrate with the access point at the north of the Phase 1 development site.
23. A pedestrian/cycle access would be provided, making use of the existing pedestrian/cycle path on the western boundary of the site adjacent to Elsenham Station. Residents' parking, to comply with ECC's Parking Standards (2009) and the Council's Local Residential Parking Standards (2013) would be considered at reserved matters stage, along with cycle provision.
24. With the exception of access to the site, all matters of detail shown in the submitted plans are illustrative. However certain features would be tied into any eventual outline permission by means of the conditions proposed and a section 106 obligation, completed in the form of a unilateral undertaking.
25. Landscaping is proposed in and around the perimeter of the site. The existing hedgerow would be enhanced with additional tree planting to mitigate potential views of rooftops from Henham to the north-east by creating a wooded edge. An indicative path through the central open space is shown and a central swale leading to attenuation basins at the bottom of the hill. The design of the scheme includes a sustainable drainage system (SuDS) and wildlife pond to provide the storage volume as required by ECC as lead local flood authority. Multi-functional open space would provide for leisure and recreation uses, including a nature trail and children's play area, along with financial contributions to a multi-use games area (MUGA). A pedestrian route to the southeast of the site would connect with the Phase 1 development.
26. Several different dwelling sizes and designs are shown indicatively on the submitted plans. These include an amended layout plan requested by the Planning Inspectorate (J0045323_007 V2) in order to prove a possible development of 200 homes at a net density of 33 DpH with a housing mix that meets Nationally Described Space Standards. The illustrative masterplan is to be read alongside the land use parameter plan (J0045323_004) which shows a developable area including services and utilities of 7.10 Ha and public open space of 2.70 Ha. The building heights parameter plan (J0045323_005) shows a range of building heights of 10 to 12 metres, with the eastern half of the site accommodating development up to 2.5 storey height and the western half up to 3 storey height where the gradient falls away slightly. Construction is

estimated to last from 2024 to 2027 and housing delivery anticipated to be from around 80 dwellings per annum, commencing in the south and working northwards.

The main issues

27. These are:

- A. Whether the proposed development is in a sustainable location, including whether it would afford occupants reasonable access to shops and services and meet the aims of national and local sustainable transport policies;
- B. The effect of the development on the character and appearance of the area, including the special attention to be paid to the desirability of preserving the setting of the nearby Grade II listed building;
- C. The impacts of the proposed development on highway safety and the road network, including by reason of cumulative impacts of other developments;
- D. Whether adequate provision would be secured for any additional need for facilities, including transport, education, community facilities, and open space arising from the development; and
- E. Whether having regard to the supply of housing and applying the tilted balance set out in NPPF paragraph 11(d)(ii), any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Whether a sustainable location

28. Elsenham is identified in the LP as a Key Rural Settlement. LP Policy S3: Other Development Limits, defines the boundaries for Elsenham and other key rural settlements on the Policies Map. Policy S7 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... There will be strict control on new building"*.

29. The site is in the countryside outside the settlement boundaries of Elsenham. Thus the policy would normally prevent development of the type proposed in this location. However Policy S7 continues: *"...Development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there."*

30. Many appeal decisions were cited by the applicant which discounted LP Policy S7, broadly for the reason that it is out of date, being predicated on an assessment of housing demand that no longer applies. Therefore it is said, and I agree, that the boundaries of settlements next to the countryside should be flexible and not impede the delivery of much needed housing.

31. The site is in a generally sustainable location adjacent to Elsenham rail station with direct links to London, Bishops Stortford, Cambridge, Harlow and Broxbourne by public transport within 60 minutes travel time. However, outside peak times the trains are not frequent. Two bus stops are located at

Henham Road opposite the Crown PH, and at Station Road. The scheduled 7/7a bus service provides connections between Bishops Stortford and Stansted Airport. The 441 bus service between Takeley and Saffron Walden operates once in the morning and once in the evening to serve the high school in Saffron Walden. The site would benefit from pedestrian and cycle access to the rail station and is generally accessible to the existing bus service on Henham Road. For hospital appointments, dentists, leisure centres, supermarket shopping etc, residents would have to travel to Bishops Stortford or Saffron Walden.

32. The closest larger supermarkets are in Bishops Stortford. The retail offer in Elsenham is limited and arguably local services have lagged behind the pace of new development there. However there are some services and facilities within reasonable walking distance or by cycle from the site, including a primary school, post office, GP surgery, a mini supermarket and a café/takeaway. Other community facilities are nearby such as a public house and two small community halls, the village hall and Memorial hall. HPC provided a detailed estimation of the impact of the proposals on local infrastructure which I agree would result in additional pressures on current community infrastructure, for example the community halls. A s106 obligation would secure a substantial contribution to enhance the community facilities.

33. A primary school and nursery are proposed for the Phase 1 development on a "call" basis where the developer is committed to providing serviced land for the purpose. There is a 10-year span, which has nine years left and as of now, ECC as education authority has not called for the site.

Sustainable transport aims

34. The nearby train station would provide a good service for commuters to London and Cambridge, but otherwise the bus service is limited and does not run in the evening or on Sundays. The walking isochrone presented by the applicant needed to be revised due to distances being calculated from the southern part of the site by the main access connecting to the phase 1 development. Considering the extra walking distances to facilities from parts of the application site, a car would often be considered necessary to access facilities and shops. Also, Stansted Mountfitchet and Bishops Stortford have a far greater retail offer to which occupants of the village would resort, including by private car.

35. The NPPF has no guidance on acceptable travel distances, however paragraph 12 states that applications for development should give priority first to pedestrian and cycle movements in the scheme and neighbouring areas. Further, paragraph 105 advises that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. The guidance cited by HPC on maximum walking or cycling distances is not absolute. Whilst there would be marginally greater walking distances than in the case of the Phase 1 development, the rail station would be closer to other parts of the site and its proximity would be advantageous for the scheme.

36. The pedestrian and cycle only access onto Old Mead Road immediately to the north of the railway station, if carefully designed should encourage non-

motorised users to avail themselves of this route in order to access facilities in Elsenham which they would otherwise be inclined to jump into a car and drive around to, via the Henham Road access point. It remains to be seen to what extent the level crossing would present a psychological barrier to frequent use. The applicant did not pretend that there would be a significant increase in pedestrian flows across the railway line, however there would be scope for sustainable travel habits to be encouraged for travel within the development and to local destinations within Elsenham and the surrounding area. Furthermore, I note from the applicant's briefing note of 9 December 2022 which supplied among other things, revised walking distances, that pedestrian access via Station Road to some facilities such as the local surgery, Tesco and the post office would compare favourably to access via the main Henham Road access. Much would depend on a detailed design scheme that would make walking feel like an instinctive choice for everyone undertaking short journeys.

37. Car ownership levels would be expected to remain relatively high in a mainly rural district such as Uttlesford where, in order to achieve a comprehensive and viable public transport network new development should be in areas with the best access to the existing transport network. Electrical charging points for vehicles on the application site would contribute to sustainable transport modes as defined in the NPPF by encouraging low and zero emission vehicles.
38. There is no bus service envisaged through the site from the adjacent Phase 1 development. The existing bus service is infrequent and it is not apparent how it would be coordinated with the train service to enhance travel by public means. However, ECC has agreed a per unit contribution to local bus service improvements in Elsenham, ie a public transport financial contribution of £534,200 payable to it under the s106 obligation, to support and enhance services in Elsenham linking the site to the settlements at Stansted Mountfitchet and Bishops Stortford and also to Stansted Airport.
39. The s106 obligation offered would require accommodation and other works associated with highway construction required as part of the development. Also to be secured by obligation would be real time passenger information at the bus stops on the east and west side of Station Road, and five covered cycle parking spaces near to the station with two cycle stands on highway land to be agreed with ECC. It would also secure a residential travel plan.
40. The key target of the residential travel plan is to achieve a 10% reduction in single occupancy car driver mode share for the fully occupied development from the baseline level, to be agreed with ECC, but establish this reduction against the results of the initial travel survey undertaken at 50% occupation of the site. A five-year annual monitoring period is envisaged during which there would be a travel plan coordinator, aiming to secure positive changes in residents' travel patterns. Where progress falls below trajectory, additional resources and measures would be considered and implemented. If the target is reached in five years, a more ambitious target would be considered. The travel plan would encourage residents to reduce car use through personalised travel planning, travel packs and taster tickets. Travel plans are promoted in the PPG as an important tool in encouraging sustainable travel. A 10% mode shift away from single-occupant car use is not especially ambitious, and I see no good reason why that could not be achieved.

41. I have appraised the issues separately from the conclusions reached by the Inspector in the Phase 1 development appeal and acknowledge that parts of the site are more remote from local services than in the Phase 1 development. Consequently careful consideration should be given to the siting of units furthest away from the main and secondary access points.
42. In summary, although there are some limitations in the local services within Elsenham, and bus connectivity is currently limited, overall I am satisfied that the development would be reasonably accessible to a range of facilities such as would, in accordance with NPPF, paragraph 93, enhance the sustainability of community and residential environments, in the village or in the nearby group of settlements. I am further satisfied that the measures secured by the s106 obligation would comply with criterion e) of LP Policy GEN1 which requires new development to encourage movement by means other than driving a car. The development would meet the aims of paragraph 105 and 108(a), NPPF given the commitment to public transport enhancements under the planning obligation, by providing a genuine choice of transport modes.
43. The NPPF focusses on three mutually dependent strands to sustainability, discussed below in the planning balance. In terms of location, despite the clear conflict with Policy S3 the application site offers the potential to encourage people to live and work locally where local affordable housing and community facility needs may be met. It has some real benefits as a sustainable location including its proximity to the railway station, and the potential to limit the need to travel by providing several choices of transport modes. As far as concerns LP Policy S7, there is a clear conflict with the part that would prevent new built development in the countryside, but that is subject to a number of criteria including the protection of the character of the countryside, examined below.

Character and appearance

44. The policy aim of LP Policy S7, insofar as it seeks to protect the countryside, is consistent with Paragraph 174 of the Framework where it states that the intrinsic character and beauty of the countryside should be recognised. Significant weight should be attached to this part of Policy S7.
45. On this issue I have considered the views given orally and in written evidence by all parties and given due weight to the professional expertise that informed the applicant's landscape evidence. I have considered fully the written and photographic material submitted but have also relied on my own observations of the site and the surrounding area at pre-hearing and post-hearing visits.
46. Vegetation along the side of the railway line limits direct views into the site from the majority of Elsenham to the west, and the new hedgerow and tree edge associated with the Phase 1 development would limit views of the site from the south. Otherwise the site is open with no landscape features or boundaries between the arable fields either side of the site's eastern and northern edges. A gappy hedgerow north of the site is close to FP15 and limits clear views to the site from Old Mead to the north and from Henham to the north-east.

47. The higher ground in the site affords views westward to Elsenham where the skyline is generally wooded. There are views to the ridgeline associated with Ugley Green where several public footpaths are found. Facing west and south, views are limited by a plateau ridge in the foreground. The prominent pedestrian bridge stands over the railway line to the west of the site where station buildings, car park and employment buildings inform local character.
48. Elsenham village will extend over time to the area south of the site with completion of the Phase I development, whilst to the east and north is farmland as described. In landscape character terms, the site is wholly in the B10 Broxted Farmland Plateau Landscape Character Area (LCA), ie a flat open, agricultural landscape. Field boundary features and vegetation restrict the main area of visibility towards the site within a distance of c1km. Visual receptor groups in the assessed Zone of Visual Influence (ZVI) comprise residents and visitors at Elsenham and Henham, respectively 30m to the west and 900m to the north-east.
49. There are no statutory or local landscape designations to be assessed in the ZVI or wider 3km study area, although several features contribute to local landscape value such as the rights of way network, recreational landscapes and designated heritage assets. Overall the LCA has a moderate to high sensitivity to change. The LVIA assesses the effects on landscape character as limited to those areas within the site and immediate surroundings up to 500m away where direct effects would be Moderate and Adverse. Indirect effects within the LCA would reduce with distance from the site to Slight and Adverse within 500m, only where there is intervisibility. Effects to all other character areas within the study area were assessed as Minimal.
50. The direct visual effects from the proposal would be on residents and visitors to Station Road and users of FP15 to the north of the site. Reduced effects obtain, assessed as Moderate, to the north-west where another right of way exists, Footpath 13 north of Ugley Green. The LVIA assesses as Slight-Minimal and Neutral/Positive the effects to the north-east up to 1.3km within limited locations from the public right of way network, local roads and recreational routes, reflective of the tight visual envelope of the proposed development. It assesses as Minimal or no effect on other receptors, including Cutler's Way cycle route and Sustrans Route 50, Old Mead and Henham village overall. Effects for Elsenham settlement as a whole would be adverse but assessed as small scale, low in magnitude and of slight effect.
51. The Council has not taken issue with the LVIA, whereas HPC extensively criticised it, whilst acknowledging that it repeats most of the information submitted in the Phase 1 development appeal. The application site is closer to Henham and FP15, however the LVIA submitted takes this into account. More pertinent in my view is the point that current views of open countryside would be lost, as would the rural backdrop to the station and setting of the village. The rural views in the northern part of the village are clearly valued by the local community. Whilst the landscape is not rare it makes a positive contribution to the wider open agrarian character of the area.
52. The LVIA assesses the landscape as of "community value", ie containing features or landmarks of local interest, but little or no wider recognition of their value. The derivation of this term is not explained and if it is intended to

distinguish the land from other formal designated landscapes, it should be noted that an area might be a 'valued landscape' in the context of NPPF, paragraph 174 whether or not it has a formal designation.

53. I have carefully considered the applicant's LVIA methodology. Since GLVIA3 was published in 2013, further factors that can be considered in assessing landscape value outside nationally designated landscapes have been incorporated into Table 1 of the Landscape Institute's 'Technical Guidance Notes 02-21: Assessing landscape value outside national designations', also referenced in the LVIA. However the LVIA's own tables and commentary clearly attempt to suggest that only landscape areas of greater than "community value" may be considered to be 'valued landscapes'. Sites not subject to a value designation can however be assessed as to qualities and characteristics etc, using the GLVIA3 approach, but in considering the landscape value of a site it seems to me there is a range from 'high' through 'medium' to 'low' in terms of the landscape's performance against criteria set out in GLVIA3 and Table 1. Therefore there is no necessary hard and fast distinction that would separate out a landscape as of "community value", that would consequently prevent its being a valued landscape for NPPF purposes.
54. The LVIA includes the rights of way network as localised features of landscape value with limited wider recognition of their value. There is a local consensus that the public right of way network is of special recreational value, and FP15 is highly regarded. That said, based on what I saw and reviewing the receptors selected and examined in the LVIA, considering the relevant criteria which include recreational and perceptual value but also landscape quality and condition, scenic quality, rarity and representativeness, and considering the site as part of the wider landscape, rather than limiting consideration its particular characteristics, I do not find it to be a "valued landscape" for the purpose of the NPPF.
55. The open nature of the skyline of higher areas of plateau is visually sensitive, so landscape planting would be required to conserve rural local character and deciduous tree planting to mitigate the visually intrusive effects of the scheme. A carefully designed planting scheme around the site could mitigate appearance of the built form in the landscape albeit that, as the photowires demonstrate, it would take several years to achieve the desired outcome.

Hedgerow and FP15

56. FP15 is a well-walked path, linking the villages and affords clear views of the site and towards Elsenham. The decision letter for the Phase 1 development at paragraph 57 states that views would be limited from FP15, especially given the vegetation proposed for that site's northern boundary. That permission requires, prior to occupation, an approved scheme for gap planting in the hedgerow to the south of FP15.
57. LCA guidelines recommend strengthening of hedgerows where gappy and depleted, but in my view this should be carefully reviewed at least in the context of the present development proposal. Structural planting on the north and eastern edges of the site itself would reduce visual effects and soften massing of the built form. However additional planting between the gaps of the hedge (what the Phase 1 decision letter referred to as resulting in 2 visual

barriers) would not necessarily render the harm to footpath users “less than moderate in the long term”.

58. In my view, and having walked the route, the hedgerow gaps serve a valuable purpose in connecting users with the expanse of land to the south, only some of which would be covered by the built form, such that whilst users would experience a significantly changed landscape, they would be disconnected from that side of the path if the gaps were closed completely. It risks creating a sense of enclosure with walkers being funnelled along the path and confined to an outlook to the north, closing off FP15 from views of the village and the surrounding field structure.

Summary and findings on landscape character

59. Development of the site would significantly impact the settlement edge. Overall the site could accommodate housing in the proposed landscape strategy by screening the development effectively from Henham village to the north-east with woodland and create new green infrastructure for wildlife in accordance with a Landscape and Ecological Management Plan (LEMP) secured by condition, that would optimise habitat creation and management during the life of the development.

60. In terms of recognising the intrinsic character and beauty of the countryside as sought by NPPF, paragraph 174, subject to the ultimate form and disposition of the built development through a careful design at reserved matters stage, erosion of landscape character of the wider area could be contained. Adverse visual effects would be mitigated through a sensitive programme of woodland creation and screening. However, the creation of a residential development would definitively change the character of the site.

61. There would be a permanent loss of part of a large arable field which contributes to local landscape character and is part of a wider open agricultural setting of value to residents and footpath users. The loss of landscape character in this part of the countryside would be contrary to the expectations of Policy S7. The proposed landscaping scheme, together with the ecological measures proposed would not make up for this loss which would be keenly felt by the local community, however it would produce benefits, especially in the net biodiversity gain (NBG).

Grade II listed Waiting Room

62. This is a small mid c19 timber-framed and weather-boarded station building to the east of the railway line at Elsenham station with timber canopy and ornamental fascia on cast iron columns with arched braces. The heritage statement supplied by the applicant acknowledges that the rural setting of the building permits understanding of its historic context which would be eroded by the proposed development, but there would be a low level of less than substantial harm to its significance as well as that of its setting.

63. In considering whether to grant planning permission for development which affects a listed building or its setting, special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, in order to comply with s66(1) Planning (Listed Buildings and Conservation Areas) Act 1990.

64. The historic rural context of the building includes the application site as part of the open agrarian setting which has prevailed since the mid-19c. Although this assists in revealing its historic context and location away from the main settlement, it does so in a limited way and the adverse effect would be slight. In any event the vegetation along the railway line acts as a more immediate background by means of which appreciation of the wider agrarian landscape is attenuated. I find that the proposal would lead to less than substantial harm under the NPPF, paragraph 202, to be weighed against the public benefits of the proposed development in the planning balance below.

Loss of agricultural land

65. Best and most versatile (BMV) agricultural land is grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The ALC assists in informing decisions on the appropriate sustainable development of land. The Council asserts that the site is grade 2 (very good) and grade 3 (good to moderate), without differentiating between Grades 3a and 3b. The Design and Access Statement (DAS) appears to be in error in recording the 1986 provisional ALC for England and Wales for the site as grade 2 (21.6%) and grade 3 (78.3%), whilst the applicant's planning statement has the figures apparently the other way round at grade 2 (70.1%) and grade 3 (29.9%). The provisional ALC is generally insufficient to assess individual fields and the site as inspected was found to comprise grade 1 (29.5%) and grade 2 (60.1%), and grade 3 (10.4%). Again, the planning statement differs, although in this case marginally so, describing the site as grade 1 (35.9%) and grade 2 (64.1%). It is not disputed that grade 2 and 3a land is prevalent in the district, including around settlements.

66. LP Policy ENV5 only permits development of BMV agricultural land where alternative sites have been considered. However, the NPPF, paragraph 174(b) acknowledges the economic benefits of BMV agricultural land yet does not require assessment of alternative sites. I find no good reason to disagree with the findings in the Phase 1 development appeal decision, based on the earlier conclusions in the 800-dwelling appeal, that there were no substantial areas of lower grade land close to existing settlements in Uttlesford.

67. I recognize that HPC highlights the finding that much of the site appears to be ALC grade 1 and has commented that the climate crisis should prompt the need to produce more food locally, hence it would be wrong to develop the best land in the country. Food security considerations are not currently factored into planning decisions that affect farmland, however in my view the loss of Grade 1 land itself merits consideration. Nonetheless, neither Policy ENV5 nor NPPF, paragraph 170(b) considers the matter save under the general rubric of BMV land. HPC considers there to be far less Grade 1 land in the district. This may be so but there is no substantiated evidence to this effect before me and I note that the 800-dwelling scheme would have entailed the loss of some 51ha of BMV agricultural land, yet this loss was given limited weight by the SoS since there were no substantial areas of lower grade land close to existing settlements in Uttlesford.

68. It occurs to me that the development is not sufficiently large to trigger, under Town and Country Planning (Development Management Procedure) (England) Order 2015, mandatory consultation with Natural England (NE) on development leading to the loss of over 20ha of BMV land where not in accordance with an

approved plan. Of course where successive proposals individually fall below but cumulatively rise above, that threshold, that must in itself be a consideration. However in this case even taking account of the cumulative loss of BMV land with the Phase 1 development, (which comprised some 19.65 hectares of predominantly arable agricultural land) it would be relatively modest.

69. For these reasons, I consider that only very limited weight can be given to this loss, and to the consequent conflict with saved LP Policy ENV5. Any grant of planning permission should be made subject to a condition to safeguard soil resources, as offered by the applicant to be included in a detailed Construction Environmental Management Plan (CEMP). NE, whilst not objecting to the proposal, has advised that an appropriately experienced soil specialist advises on and supervises a soil management plan.

Other design matters

70. Elsenham is now a fairly large village which has been extended in all directions. The Phase 1 development has breached what was a tolerably clear limit to large development eastward into the open countryside beyond the railway line. The application site has the potential to create a balanced extension to the village, provided the boundary treatments to the north and east are most carefully attended to following construction and vigilantly maintained. Failure to do this would risk destroying the sense of separation between the site and Henham to the northeast, and causing unacceptable further loss to local landscape character.

71. No secondary access for road traffic is proposed at the application site whereas ECC had considered such a route should be provided. Also, as the LVIA states, the current gateway into the village of Elsenham in this direction is broadly at the station car park and station crossing along Station Road/Old Mead Road and the development "*will not advance this gateway any further north*" (paragraph 7.2.4). A through route connecting High Street/Henham Road with Old Mead Road was discounted by the applicant in the TA (section 2.6) and I agree that the feasibility of a vehicular access at this location appears compromised by visibility issues, certainly without a more comprehensive solution involving other land, which is not before me.

72. Short of providing a vehicular through route, sustainable public transport links could be enhanced around the north-western corner of the site at the railway station. An additional 200 dwellings envisaged in this application would form a development of 550 dwellings with the Phase 1 development. ECC would normally expect a development of this size to be served by a bus route through the site to ensure that all dwellings were within 400m of a bus stop but accepts that actual provision cannot be guaranteed with the current proposals. In the short to medium term ECC would need to make good on its programme to upgrade existing services with the considerable investment that will have been accumulated potentially from this, and other developments.

73. Although access is a non-reserved matter, and no issue is taken with the areas where access points to the development would be situated, accessibility within the site, positioning of circulation routes etc, should be considered at RM stage. The 800-dwelling scheme envisaged interchange facilities in the northwest part of what is the current application site, including bus stop, taxi

waiting area and drop-off area. As my colleague pointed out in that appeal decision, fixing areas of development around this part of the site would prevent the opportunity for satisfactory integration.

74. In the current proposal attenuation basins are indicatively shown in the lower parts of the site and built form is set back from the station, creating a green corridor for pedestrian and cycle access linked to this and the Phase 1 development. The optimum location for the indicatively shown elements should be reviewed at RM stage, balancing factors such as accessibility, minimisation of adverse landscape effects at the more sensitive northern and eastern edges of the site, and optimisation of densities by focussing the higher development in lower parts of the land without comprising an acceptable location for the attenuation basins, as to which Network Rail's concerns over siting close to the railway line should be carefully considered. The travel plan contemplates highly permeable pedestrian and cycle routes and these also should form part of a design code secured by condition to apply at RM stage.
75. The building heights parameter plan shows the proposed range of storey heights for dwellings across the site. It is intended to have effect and be linked to a condition that enjoins the developer to abide by those parameters. Thus, in the areas set out, some higher built development would be allowed. I note the concerns expressed by some, but in my view, these are misplaced. I noticed for example that the linear development along Old Mead Road on the approach to the station successfully incorporates 2 ½ storey contemporary homes, including dormer features of some scale and massing, integrated architecturally with their hosts. Given a sensitive and imaginative approach to their ultimate form and disposition within the site, further development in this large village need not be limited to 2 storeys as a matter of principle.
76. However I am doubtful whether 3 and 2 ½ storey development should address the open countryside. It is likely that any higher storey elements would be better sited internally or adjacent to the railway line, however details of appearance, scale and layout would be reserved matters. Subject to that detailed assessment the scheme should reinforce a hierarchy of density that is fundamental to achieving a sustainable urban form.
77. It does not therefore follow that an acceptable outcome of reserved matters applications would necessarily result in full permission for the maximum number of units, despite the acknowledgement made by the Council's design officer when questioned by me, that this could be achievable in principle. At RM stage a careful application of the Council's parking standards is called for, in light of the NPPF, paragraphs 107 and 108 which seek to take into account the availability of and opportunities for public transport, and the types and mix of development proposed.
78. The applicant's noise assessment may not have covered more than standard buildings set at a height of 8m (paragraph 6.2.4, Noise Impact Assessment, September 2022) and of the three noise measurement positions, one was not captured due to vandalism of equipment but not reassessed. In any event a considered scheme to be approved for protecting the proposed dwellings from rail noise should be required by condition as part of any eventual permission. Whilst most external amenity space is above below the upper acceptable acoustic limits, design options would be expected to show how external levels

could be reduced to the more desirable 50dB criteria to improve the external noise environment for future occupants.

79. To the north and north-east, open space would be located along the periphery of the site to allow a minimum of 10m wide structural planting to reduce visibility and soften the mass of development from views to the north and north-east. The exact dimensions of the buffer strip remain to be assessed in detail at reserved matters stage, bearing in mind the need to achieve a satisfactory balance between the height and massing of development on the site overall, and the need to minimise any adverse effects on the landscape, especially in the northeast quadrant of the site, as well as placing residents within optimum walking distances from local facilities to discourage car use.
80. An additional local area of play was sought by the Council on the west of the site to enable all homes to be closer to such provision. The site is capable of providing an acceptable amount of open space, although the exact balance between the quality and accessibility and quantity would more appropriately be considered at RM stage, having regard to the factors described above, including the amenity space to be provided individually such as for example, options including balconies for apartments.
81. Overall, the proposed scheme could draw from local influences in the surrounding development and use similar established materials, details and features. A combination of different dwelling sizes and designs informed by the rural landscape, historic and recent patterns of development, built heritage assets and the layout/form of local streets, could create a distinctive area of character.

Highway safety and road network

82. Under LP Policy GEN1 development will only be permitted if it meets all of the following criteria:
- "a) Access to the main road network must be capable of carrying the traffic generated by the development safely. b) The traffic generated by the development must be capable of being accommodated on the surrounding transport network. c) The design of the site must not compromise road safety and must take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired. d) It must be designed to meet the needs of people with disabilities if it is development to which the general public expect to have access. e) The development encourages movement by means other than driving a car."*
83. Criterion e) has been considered in the first main issue. The scope of the applicant's Transport Assessment (TA) was established with ECC in a similar format to the Phase 1 development application. The proposed site access was considered as part of the Phase 1 development. I have considered the latest comments in relation to this application, however I am satisfied that the junction as currently designed and proposed would be safe and fit for purpose.
84. Several interested persons, including HPC, EPC and the operators of Stansted airport, Manchester Airport Group (MAG) had concerns over the cumulative impact of incremental traffic growth from this and other development proposed on the surrounding road network, notably in Stansted Mountfitchet.

The TA gives detailed consideration of committed development trips on the local road network. A microsimulation traffic model (VISSIM) assessed the operational performance of the network in 2027 including the proposed development, which ECC as local highway authority referred to consultants. The 2027 junction capacity assessments and Stansted Mountfitchet VISSIM models showed that the existing local road network could accommodate the additional vehicle trip generation from the proposed development without significant increases in congestion, delays or journey times for all “with the development” scenarios, including the sensitivity test with the additional flows from the development currently applied for to the south of Henham Road.

85. Committed developments as identified by ECC in September 2022 were included in the 2027 baseline and the predicted AM and PM peak hour vehicle trip generation of each development was assigned to the local highway network, based on the network flow data in each development’s transport assessment/statement. This resulted in 479 vehicles added to the highway network in the AM peak and 501 vehicles added in the PM peak.
86. PPG Paragraph: 015 Reference ID: 42-015-20140306, states that assessments should generally be based on normal traffic flow and usage conditions (eg non-school holiday periods, typical weather conditions) but it may be necessary to consider the implications for any regular peak traffic and usage periods (such as rush hours). Projections should use local traffic forecasts such as TEMPro, drawing where necessary on National Road Traffic Forecasts for traffic data.
87. The Trip End Model Presentation Program (TEMPro) is a data browser that analyses pre-programmed trip-end, journey mileage, car ownership and population/workforce from data in the National Trip End Model (NTEM). NTEM forecasts are known to be subject to uncertainty, especially when disaggregated to local zones or travel modes. The TA considered that the committed developments listed accounted for all forecast traffic growth over the next 5 years, therefore it was not appropriate to uplift traffic flows using TEMPro-derived car driver growth factors, to avoid double counting of vehicle trips and overestimation of the 2027 baseline conditions.
88. ECC was concerned that no account was taken of growth in employment, including at Stanstead Airport. However, the TA included a control test where alternative TEMPro assumptions were included. The predicted low levels of growth were mainly due to removing the large amount of committed housing development and on average the TEMPro forecasted a slight reduction in traffic. I agree that a robust assessment would not use the TEMPro growth factors in place of the committed development flows added directly onto the 2022 baseline flows. The committed development traffic would considerably increase vehicle flows across the local road network, by between 0% and 31% in Elsenham and Stansted Mountfitchet. The highest percentage changes were forecast in Elsenham, on Hall Road and B1051 Stansted Road; in Stansted Mountfitchet, on Lower Street and Chapel Hill, and in Stansted Airport, on the link to/from Coopers End Roundabout and Parsonage Road.
89. The performance of the highway network in the 2027 baseline was assessed to estimate capacity at 4 key junctions. These are: the site access, where the junction is also part of the Phase 1 development which is predicted to operate

within its design capacity with minimal delays and insignificant queues, as is the case for the High Street Double Mini Roundabout and the Hall Road/Henham Road junction. Lastly, the Coopers End Mini Roundabout would operate within its design capacity with minimal delays and insignificant queues save for the Hall Road Arm. All assessed junctions would operate below capacity with low levels of delay and queuing, whilst at Coopers End mini roundabout in the AM peak, a small increase in queuing and delay (+24 seconds per vehicle) would obtain on the Hall Road Arm.

90. At Stansted Mountfitchet the VISSIM model indicated that with the committed development, the network would operate at 2027 baseline levels, within overall capacity, with minimal increase in average journey time and delay per vehicle. At Chapel Hill, the additional committed development trips would have a minor impact on additional queue lengths and a small increase in journey times in the AM peak period and overall no severe impact on the operation of the local highway network through Stansted Mountfitchet.
91. The 2027 baseline flows and traffic generated potentially by the South of Henham Road application (Ref S62A/22/0007) were added to the 2027 baseline flows. The ratio of flow to capacity (RFC) indicates the extent to which traffic flows on an intersection arm approach capacity, with full capacity being an RFC value of 1. The key junctions would, from the standalone assessments continue to operate within design capacity save that Coopers End Mini Roundabout where the junction would be close to design capacity at RFC 0.91 would result in some queuing. An RFC of up to 1.00 is generally accepted for the operation of existing junctions in peak periods. As to the VISSIM model, the B1051 through Stansted Mountfitchet would in AM peak hours experience a maximum queue increase from 10 to 19 vehicles, not considered to have significant operational issues.
92. The approved application from South of Vernon's Close (Ref UTT/20/0604) was omitted from the committed development. It would generate some 22 vehicles two-way in each peak hour and add some 7 vehicles to the route between the site and local destinations. I agree that adding movements of this order to the traffic flows in the TA would not significantly alter the results.
93. The TA concluded that no junction capacity improvements would be required at the assessed junctions to mitigate the impact of the proposed development. The VISSIM micro-simulation model predicted additional development generated trips which would result in minor increases in queues and delays on the main route through Stansted Mountfitchet, compared to the 2022 baseline and 2027 baseline conditions. Overall, the impact of the development traffic on the B1051 through Stansted Mountfitchet was considered minimal, and no mitigation to enhance highway capacity is proposed in Stansted Mountfitchet. Similar conclusions were reached for vehicle trips generated by the south of Henham Road development.
94. ECC's consultants had concerns with the journey time validation at Grove Hill signalised junction and related matters. Criticism is levelled at the modelling derived from traffic counts in order to assess the likely effect of the development on this junction. The technical note appended to the TA fully explains the methodology used in respect of the particular conditions at this location and in my view, it is a robust analysis. The model's assumed steady

state flow conditions, absence of gridlock situations and ideal driver behaviour, are noted, however there are limitations in any traffic model attempting to reflect the full range of traffic conditions and driver behaviours.

- 95.HPC had similar concerns. The modelling does apply standard averages from multiple simulations which do not reflect driver behaviour at Grove Hill in Stansted Mountfitchet, but this is amply justified in paragraph 8.3 of Appendix N to the TA. Issues validating such a model with short sections of a highway are acknowledged, with a small absolute difference between modelled and observed journey times resulting in a relatively significant percentage difference. The +/- 15% criteria for smaller models may be appropriate for lengths of c1km and under, use of the 60 second criteria between observed and modelled times would be acceptable for the model of c1km in length and in fact the differences would be significantly less than the maximum time differential. On balance I am satisfied that the model accurately reflects baseline conditions for the purpose of assessing cumulative impacts of the proposed development on the local highway network.
- 96.The coding of the give-way mechanism at Chapel Hill to replicate the narrow road, with vehicles from one direction passing at a time, may benefit from recalibration so that the westbound direction is slower, in accordance with observed journey times. However, I am unpersuaded on the information available that there would be any material benefit in further iterations of the model since the case is not made by ECC as the local highway authority that there would be a severe cumulative impact on the basis of the current model.
- 97.In the Phase 1 development appeal decision it was found that the improvement works offered as mitigation, which had by then been implemented in 2019 had:
- "reduced queuing and delay at the Grove Hill traffic signals, and the appellant's VISSIM model has confirmed that the ECC improvements provide a similar level of performance as would the appellant's proposed mitigation measures. Because of this, ECC considers that the mitigation works proposed by the appellant are no longer necessary."* (Paragraphs 94 and 95).
- 98.As I experienced myself, traffic congestion does occur due to the configuration of the single file sections of the carriageway at Grove Hill, and along Chapel Hill in Stansted Mountfitchet. The road is difficult to navigate on a hill with parked cars, so local drivers know where to leave a gap, otherwise vehicles may encounter difficulty in needing to reverse up or down the hill. However, from the evidence it seems to me that the more acute issues are when heavy goods vehicles (HGV) are caught in the single carriageway when the traffic lights have not adequately separated out oncoming vehicles.
- 99.Further mitigation is forecast to be needed by the modelling, ie a second vehicle queue detector at the top of Grove Hill, to improve detection of vehicles in the secondary queue as described in paragraph 5.2.3 of the TA. A package of measures has been agreed and is offered via the s106 obligation to mitigate the impacts related to HGV traffic. The permitted development for up to 99 homes at Isabel Drive (appeal decision APP/C1570/W/20/3256109) provides for these measures which have yet to be put in place. Therefore the applicant has agreed

to a condition that occupation of the development should be restricted until those measures are approved and funding provided.

100. The proposed development would produce a small increase in delays on Hall Road in the AM peak period. The alternative route in and out of the village is via the A120 and M11 by Stansted airport terminal. I note the concerns of MAG about the capacity of the mini roundabout, however the permitted expansion of operations at Stansted Airport were included within the TA which indicates that with the proposed development, one arm of the mini roundabout would operate at close to its capacity but only for a short period in the morning peak period. If traffic flows increase significantly in the future due to increased trips to the airport, it would be for the airport to mitigate their impact.
101. HPC and others had concerns about the efficacy of the VISSIM modelling, comparing the results with interim outcomes for the exercise undertaken in respect of the application being considered for the South of Henham Road application. HPC's wider concern was that modelled assessments for recent applications and appeals had shown different forecasts ostensibly based on similar inputs. I understand there may be differences between models. However it is not for me to second guess the final definitive outcome of assessments being made for other schemes still to be decided.
102. The scope and level of detail in a transport assessment will vary from site to site. The timeframes in this TA were agreed with ECC which was based on normal traffic flow and usage conditions but included the implications for regular peak traffic and usage periods and used local traffic forecasts in accordance with PPG guidance. ECC's points are made conscientiously and are not misconceived, but they do not suggest that the residual cumulative impact of the proposal would be severe and contrary to policy. I have examined the assessment made for the purposes of the current proposal and whilst it might be improved in minor ways, overall I find the modelling process to be robust and should carry weight accordingly.

Conclusions as to highway matters

103. Elsenham is positioned at some distance from the strategic highway network, and within a network of rural roads which do not provide ideal conditions for connectivity. However, the impacts of the proposal as regards safety and capacity issues within the road network would not be so unacceptable or severe in terms of the criteria set out in NPPF, paragraph 111 that a refusal of permission is justified on this ground. The cumulative impact of traffic growth from this and other development proposals on the surrounding road network, including at Stansted Mountfitchet, has been robustly assessed. I recognise the very many comments received from interested persons relative to recently approved developments and the traffic conditions on the local network and Grove Hill area in particular. However, there was no information that persuaded me that the highway network would not have the capacity to accommodate the additional vehicular movements predicted if permission were granted for the proposal.
104. The design of the site takes account of the needs of all motorised and non-motorised users and the public transport, highway works and mitigation

improvements that would be secured should be brought into the equation and given appropriate weight.

105. Overall, and subject to details submitted pursuant to the proposed conditions to ensure safe and suitable access through the approved layout to the south, the proposal would comply with LP Policy GEN1. Safe and suitable access to the site could be achieved for all users with any significant impacts from the development on the transport network in terms of capacity and congestion, or on highway safety, being cost effectively mitigated in accordance with NPPF, paragraph 110.

Provision for additional need for facilities

106. Under ULP Policy GEN6 development will not be permitted unless it:

“makes provision at the appropriate time for community facilities, school capacity, public services, transport provision, drainage and other infrastructure that are made necessary by the proposed development. In localities where the cumulative impact of developments necessitates such provision, developers may be required to contribute to the costs of such provision by the relevant statutory authority.”

107. A completed s106 obligation in the form of a unilateral undertaking was submitted. It provides for several obligations to be performed by the applicant/owner as follows:
- A Community Facilities contribution of £476,923 index linked, payable to the Council would be used towards the provision of a community centre;
 - A Site Access Management and Monitoring Measures (SAMMS) Contribution of £29,231 index linked to the Council for use by the National Trust (NT) to manage and monitor the Hatfield Heath Site of Special Scientific Interest (SSSI);
 - A SAMMS Contribution of £29,231 index linked to the Council for use by NT to manage and monitor the Elsenham Woods SSSI;
 - A Health Care Contribution £78,872 index linked to the Council to be used for the provision of additional capacity to accommodate patient growth generated by the Development;
 - The setting up of a Management Company in relation to the public open space and play areas;
 - The provision of up to 40% of the proposed dwellings as affordable housing units, 50% to be handed over to provider before 50% occupation of market housing and the rest before 80% market housing is occupied, together with parameters regarding its disposition on site, tenure mix and type of unit, and allocation and management of units;
 - 5% of the dwellings to be built to Category 3 (wheelchair user) housing Part M3 Building Regulations 2010 (as amended);

- An Education Contribution comprising an Early Years and Childcare Contribution, a Primary Education Contribution, a Secondary Education Contribution, and a Secondary School Transport Contribution, all indexed linked, and calculated pro rata according to the total number of qualifying housing units and cost generators, agreed with ECC as local education authority (LEA);
 - A Library Contribution index linked and calculated pro rata according to the number of qualifying units, to upgrade existing facilities in local libraries;
 - A Public Transport Contribution of £534,200 to enhance local services in Elsenham linking the site to key towns and villages, including public transport infrastructure works to improve reliability of services and reimbursement of capital funding made by ECC in anticipation of receipt, together with monitoring contribution;
 - A Residential Travel Plan and a Residential Travel Information Pack;
 - Highway Works including real time passenger information at bus stops and cycle parking facilities on highway land as approved by ECC; and Highways Works and Maintenance Contributions of £25,000 and £21,690 both index linked towards a scheme to reduce the impact of heavy goods vehicles on Grove Hill Junction including possible enforcement cameras, signing and maintenance of real time information boards; and
 - Monitoring contribution of £24,000.
108. The NPPF contains policy tests for planning obligations; they must be necessary to make the development acceptable in planning terms; directly related to the development, and fairly and reasonably related in scale and kind to the development. These tests are found in Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010.
109. Some funding commitments for the community centre have been put in place from other developments. The funding from this scheme would considerably increase confidence that the facility would be successfully completed and become a valued hub for local community activities.
110. The requirement to provide 40% affordable housing meets the aims of LP Policy H9 and H10. The public transport and highways related contributions reflect the same calculations and assumptions made by ECC in its CIL justification document. The education contributions are supported by ECC as education authority. They are calculated by a standard formula, would be fairly and reasonably related to the development proposed and meet the statutory tests.
111. Having had regard to the above matters, I am satisfied that the obligations meet the requirements of NPPF, paragraph 57 and Regulation 122 of the CIL Regulations 2010. They are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Consequently, the completed planning obligations would satisfactorily address the impact of the proposed development and comply with LP Policy GEN6.

Supply of housing

112. The application responds to the Government's aim, stated in paragraph 60 of NPPF, to significantly boost the supply of homes. Key LP saved policies include Policy H1 which proposes an additional 5052 dwellings between 2000 and 2011. "Time-expired" is not the phrase I would use for policies that are saved and continue to have force under the statutory test of s38 Planning and Compensation Act 2004, under which applications are determined in line with the development plan unless material considerations indicate otherwise. A policy is not out-of-date simply because it is in a time-expired plan.
113. That said, the LP was expected to have been replaced after 2011 and it predates even the first iteration of the NPPF in 2012. LP Policy H1 in effect requires an average equivalent of 459 dwellings per year (dpa) whereas the Council's latest statement on its 5 year housing land supply (HLS) and housing trajectory, contains standard methodology (SM) used to identify a housing requirement of 701 dpa for Uttlesford. The SM requires a significant additional uplift in annual housing delivery which is not reflected in the housing policies of the LP. Accordingly, it would be correct to describe the housing policies as now out of date insofar as they would restrict the supply of housing.
114. The Council states the HLS is currently at 4.89 years, which is an improvement on the previous figure of 3.52 years but is still below 5 years. Thus in accordance with the NPPF if a local planning authority cannot demonstrate a 5 HLS, and the housing supply policies are out of date, the tilted balance applies, as expressed in NPPF paragraph 11(d)(ii). This guidance expects me to grant permission where the policies which are most important for determining the application are out-of-date, unless the application of NPPF policies that protect areas or assets of particular importance provides a clear reason for refusal; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies taken as a whole.
115. Furthermore, where the HLS is less than 5 years the NPPF guides me to apply a 5% percentage uplift (buffer) above the identified 5 housing requirement which with a requirement of 701 dpa would bring the total 5 year requirement to 3,505 or 736 dpa. Average delivery in the plan period has been 609 d/pa from 2011/12 to 2020/21.
116. It is relevant to consider this trajectory which is a marked increase on the planned-for growth rate but still deficient, in light of the required additional uplift in annual housing delivery revealed in the SM and the importance of making a significant and early contribution to boosting the district's housing supply, including the delivery of affordable housing. The quantum of development proposed here would make a valuable contribution to the district's housing supply.
117. The delivery of affordable housing is one of the Councils' corporate priorities. LP Policy H9 seeks on a negotiated site-to-site basis, an element of affordable housing of 40% of the total provision of housing on appropriate allocated and windfall sites, having regard to the up-to date Housing Needs Survey, market and site considerations. The affordable housing provision on this site will attract the 40% policy requirement as the site is for up to 200

dwellings. This amounts to up to 80 affordable homes and it is expected that these properties will be delivered by one of the Council's preferred Registered Providers. The proposal would make a substantial contribution to the provision of affordable housing in compliance with these policies.

118. LP Policy H10 requires developments on sites of more than 0.1ha or 3 or more dwellings to have a significant proportion of market housing comprising small properties. The mix and tenure split of the affordable properties could be agreed at RM stage. The Council's policy to require 5% of the whole scheme to be delivered as fully wheelchair accessible may be secured by condition and planning obligation.
119. Accordingly, the tilted balance in NPPF, paragraph 11(d)(ii) applies to this proposal. I now assess the adverse impacts of granting permission in the planning balance below, as to whether they would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, after considering compliance with the development plan as a whole and the relative importance of key development plan policies.

Planning balance

Whether the proposal conflicts with the development plan as a whole.

120. Assessed against the policies relevant to the main issues, on Policy S3 there would be a clear conflict with the settlement hierarchy. Equally, the application proposes major development on a greenfield site contrary to the strategic aims and land allocations set out in LP Policy H1.
121. LP Policy S7 has several strands to its objectives; residential development would not protect or enhance the particular character of the open agricultural fields which would be permanently changed as a result. The need for more housing in the district is generally accepted and, with other considerations would make the site locationally acceptable, but there has been no considered evaluation of other sites in the district that might lead to a rational argument based on "need" at this particular site. The scale of development proposed is said to balance development east of the railway line but that is a different matter, moreover it would be more than infilling envisaged by Policy S7 and the housing chapter policies. Therefore there is a clear conflict with that part of Policy S7 which seeks to recognise the intrinsic character and beauty of the countryside.
122. There would be a slight adverse effect from the new development on the setting of a listed building, namely the waiting room at Elsenham station and to that extent it would not be permitted by Policy ENV2. The application site consists of BMV land and since opportunities have not been robustly assessed for accommodating development on alternative sites, there would be a conflict with Policy ENV5 if permission were granted.
123. I have found that the surrounding road network could safely accommodate the traffic generated by the development, taking account of the needs of motorised and non-motorised users, and it could be designed to meet the needs of people with disabilities. Although the travel plan is not ambitious, its strategy

is clear and it would encourage movement by means other than driving a car. The proposal would comply with Policy GEN1.

124. I have assessed the application for outline permission as to whether it would be capable of meeting the several criteria set out in Policy GEN2 at reserved matters stage. Up to 200 units could be accommodated on the site with an acceptable scale, form, layout, appearance and using materials of surrounding buildings.
125. The proposal also complies with LP Policies H9 and H10 in that it includes 40% affordable housing amounting to up to 80 affordable homes on a site where a significant proportion of market housing would comprise small properties. For the purposes of Policy H9 the scheme would represent a windfall site. Through the use of conditions and the offered planning obligation, provision would be made at the appropriate times for community facilities, school capacity, public services, transport provision, drainage and other infrastructure made necessary by the proposed development, in compliance with Policy GEN6.
126. Although there are several incidents of compliance with relevant local plan policies, LP Policies S1, H1 and S3 and to an extent S7, in particular are fundamental to the plan's philosophy in seeking new residential development in the given numbers and places which it identifies and in preventing it from occurring in other areas such as the application site. Since those policies are relevant to the determination of the application, I find that overall the proposal would conflict with the development plan as a whole.

Summary of relative importance attached to national and local policies

127. The reason why the local plan policies relevant to the supply of housing are out of date is not to do with the point, fundamental though it is, that the proposal would place significant development outwith the settlement boundary and in the countryside, but rather with the proven inadequacy of the numbers of dwellings identified as needed in the LP. That said, limited weight should attach to conflict with Policies S1, S3 and S7 as they are based on a calculated need for housing that no longer applies and in consequence settlement boundaries next to the countryside need to be considered in a more flexible way to boost the supply of housing where otherwise appropriate, in accordance with NPPF guidance at paragraph 60 and section 5 generally.
128. The more compelling reason why ENV5 in its application to this application has limited weight in my judgement is not so much due to the lack of a prescribed sequential method of alternative site search in NPPF, so much as the lack of robust evidence that would counter the findings in the previous appeal decisions, that a significant amount of higher grade BMV land exists in the district. In other situations it might be perfectly proper to expect a rigorous search for suitable alternative sites, precisely in order to justify the criterion that appears in both NPPF paragraph 175, footnote 58 and ENV5, namely that where significant development of agricultural land is necessary, areas of poorer quality land should be preferred to those of a higher quality.
129. Although I have regard to the importance of consistency with earlier decision making, I disagree in one respect with the assessment in the Phase 1

development appeal decision as to LP Policy GEN2 Design. It is important not to conflate a plan that is "time-expired" with a plan that is not up to date. (cf paragraph 138 of that decision). Furthermore I cannot see the basis for treating Policy GEN2 as out-of-date by the absence of a deliverable 5 year HLS (paragraph 159). Its key criteria are entirely consistent with the NPPF. For the purposes of paragraph 219 of NPPF and generally, if "weight" has to be ascribed to an adopted development plan policy, Policy GEN2 should carry full weight for the purposes of this application and has more than limited relevance when considering whether detailed design matters could be satisfactorily resolved were outline permission granted.

130. The five-fold criteria in LP Policy GEN1 Access are generally consistent with the NPPF, in particular (although there is no line-by-line equivalent) with items a) to d) of NPPF, paragraph 110 which among other things requires new development to secure safe and suitable access to the site for all users and promote sustainable transport modes. There is no necessary conflict with paragraph 110's emphasis on good design in transport elements.
131. Paragraph 110 also seeks key impacts on the transport network to be "*cost effectively mitigated to an acceptable degree*" and paragraph 111 advises refusal of development on highways grounds only in the case of unacceptable impacts on highway safety, or if residual cumulative impacts on the road network would be severe. This does reflect a slight tension between the highly prescriptive wording of Policy GEN1. To that extent, although careful regard should be had to the GEN1 criteria, being mindful of NPPF, paragraph 219, preference should ultimately be given to the approach set out in the more recent national policy in NPPF, section 9 (Promoting sustainable transport).
132. Clearly there is a conflict between Policy ENV2 Development affecting Listed Buildings which would prevent development that affects the setting of a listed building, which is the case here, and NPPF, paragraph 202 which advises that any less than substantial harm to the significance of a designated heritage asset should rather be weighed against the public benefits of the proposal. As an important material consideration, paragraph 202 and the surrounding advice in the NPPF on considering the potential impacts of the significance of a designated heritage asset, should temper any rigid application of Policy ENV2.
133. The other adopted policies relevant to this application are:
- Policy GEN6 Infrastructure Provision to Support Development Policy;
 - Policy H9 Affordable Housing; and
 - Policy H10 Housing Mix.

The relevant parts of these policies have not generally been overtaken by things that have happened since the plan was adopted, either on the ground or through a change in national policy that would be inconsistent with them, therefore I find them not out-of-date in assessing this application.

Benefits and disbenefits

134. In environmental terms the proposal would make effective use of land through an indicative housing density of 33 DpH, subject to protecting and enhancing the natural and built environment, improving biodiversity, minimising waste and pollution and mitigating and adapting to climate change. A publicly

accessible recreation trail around the site's perimeter, and public open space/play/recreation areas would add to the environmental benefits.

135. In economic terms the proposal would have short-term benefits to the local economy through local construction activity, and longer-term benefits by supporting local services and infrastructure arising from the new residential development. And, in social terms, the new homes would be capable of providing a high-quality built environment with accessible local services that reflect community need and wellbeing and make a positive contribution to housing supply in an area that is close to transport facilities and other housing.
136. Provision of up to 200 dwellings would be a significant benefit by boosting the district's housing supply. Economic gains would follow in the form of additional local use of services and infrastructure including the primary school which forms part of the development to the south of the subject site. The proposal would also provide additional housing to the locality including much needed affordable housing at 40%, equating to up to 80 affordable homes.
137. Everyday facilities are available within walking and cycling distance of the site. An improved bus service outside the application site would be a benefit to existing and future residents in the settlement. Movement away from car use would be effectively encouraged, with a reasonably high level of confidence that the key target of the proposed residential travel plan to achieve a 10% reduction in single occupancy car driver mode share for the fully occupied development from the baseline level, would be achieved. Such proposals would generally comply with LP Policy GEN1 and NPPF, paragraph 108(a) by ensuring that appropriate opportunities to promote sustainable transport modes could be taken up. The principal access proposed would have an acceptable design and layout and provide safe and suitable access to the site for all users in accordance with these policies.
138. There are potential benefits to be had through good design that would comply with LP policy GEN2 and NPPF section 12, in particular paragraph 130, including the optimisation of the potential of the site to accommodate and sustain an appropriate amount and mix of housing development and open space. The railway line would be a dividing line between the site and the local centre and the level crossing would be an impediment given the delays in crossing, but overall the connecting point provides the opportunity to focus on pedestrian and cycle users accessing facilities in the village at this point.
139. The other key aspect of design relates to the treatment of the north and east sections of the site where only a detailed design to be approved at reserved matters stage could demonstrate the necessary balance that takes account of landscape mitigation and the ultimate form, disposition, and density of built development. Given that the application is for outline permission, limited weight is given to the benefits of good design.
140. The proposed environmental and ecological measures would be a benefit in as much as it would enhance net gains for biodiversity in line with NPPF, paragraph 174(d). Safe and accessible green infrastructure would be beneficial to healthy lifestyles, envisaged by NPPF, paragraph 92(c).

141. The residual cumulative impacts on accessibility, road safety, and the transport network would not be so severe or unacceptable as to provide a reason for refusal under NPPF, paragraph 111. On the other hand, a significant contribution would be made to enhance local bus services which, put with the contributions from the Phase 1 development scheme would be expected to achieve some economies of scale as ECC implements its transport investment programme. This would produce moderate benefits for occupants of the new development and in the wider area. Other contributions would assist in securing the long-awaited improvement to community facilities in Elsenham, together with education contributions that would also benefit future occupants, and provision of open space within the development.
142. The adverse effects of the development on loss of landscape character of the area should be given moderate weight, and further, although limited weight is given to the harm occasioned by the alterations in the setting of the Grade II listed waiting room that would result, notwithstanding the special attention that is to be paid to the desirability of preserving that setting. The loss of BMV land inherent in the proposal would be a small percentage of the overall BMV land in the district. As a result, very limited weight should be given to the conflict with LP Policy ENV5 and loss of land.

Overall planning balance and conclusion

143. Considerable importance and weight should be given to the desirability of preserving the setting of listed buildings. Applying the presumption separately from the overall balancing exercise, there would be less than substantial harm to the significance of the listed waiting room at Elsenham station and its setting, however the less than substantial harm would be outweighed by the benefits that would arise from the proposal.
144. Turning to the application of the tilted balance NPPF, paragraph 11(d) the first proviso in paragraph 11(d)(i) relating to NPPF policies that protect areas or assets of particular importance, does not say how "importance" is to be assessed. It is a broad matter of judgment left to the decision-maker. The site is not in the Green Belt and is not subject to any national designations as mentioned in footnote 7. Evidently the proposal would affect a heritage asset and therefore NPPF, section 16 is engaged, however the application of policies in that section, given my findings on that matter, provides no clear reason for refusing the proposal.
145. The tilted balance in NPPF, paragraph 11(d)(ii) does apply to this proposal, requiring an assessment of whether having regard to the supply of housing and applying the tilted balance set out in NPPF paragraph 11(d)(ii), any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
146. The application site is unremarkable in itself, being open agricultural land, and whilst it contributes to the overall local landscape character it has no landscape designation and the landscape quality is not exceptional. Although locally valued, it is not a valued landscape in terms of the NPPF, yet there would be a marked loss of recreational value through the curtailing of views over the fields, especially from FP15 north of the site.

147. The proposal does not comply with the development plan as a whole because of the identified conflict with LP policies S3, S7, ENV2, and ENV5. Policies S1 and S3, are in conflict with the NPPF and should be given limited weight. The harm to the character and appearance of the countryside is moderately adverse, where moderate weight should be given to the conflict with Policy S7, whilst very limited weight only should attach to the loss of BMV agricultural land where Policy ENV5 has limited weight.
148. The increased impacts on the surrounding road network would not conflict with national or local policy, however in transport sustainability terms, the proposal is capable of encouraging a modest modal shift in travel patterns, bearing in mind that Uttlesford is a primarily rural district with restricted access to public transport where in reality most journeys are by private car. The section 106 obligations would secure a mix of measures that would meet the impacts of the development but also provide positive benefits such as the community facility, public transport contributions and a detailed travel improvement plan.
149. The Council cannot demonstrate a five-year HLS and the shortfalls are not being addressed through the local plan process. Although the proposal would not comply with the development plan taken as a whole, there are several benefits that should be accorded significant weight, namely the proposed open market housing and affordable housing through a social housing provider, which would be very substantial benefits and carry considerable weight. Moderate weight is given to the economic benefits due to the development, and limited weight to the potential for good design. The site is in a generally sustainable location and the environmental and ecological benefits would achieve an environmentally sustainable development.
150. The adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole and as such the proposal amounts to sustainable development. Therefore, permission should be granted.

Other matters

151. The application site lies within Flood Zone 1 where there is a low probability of flooding. Concerns raised by ECC as lead local flood authority could be satisfactorily addressed through conditions ensuring a satisfactory drainage system, include details of future maintenance and management.
152. The loss of habitat for sky larks was a notable concern for local residents. The site was considered likely to support a limited assemblage of breeding skylarks. The proposed mitigation payment to a local conservation organisation or third party to create and manage skylark plots on suitable local arable land should follow specifications set out under the Countryside Stewardship Scheme 'AB4: Skylark plots' (Appendix 8) with fields subject to continued arable use, with auditing of plots by a qualified ornithologist. NE would be likely to issue a licence before granting planning permission, subject to appropriate conditions in the interest of biodiversity.

Conditions

153. The parties suggested planning conditions which I have considered against the advice in PPG. In some cases I have amended them in the interests of brevity or to ensure compliance with the PPG. The design code, contamination and remediation, drainage, archaeology, tree protection and landscaping and ecological conditions are worded as pre-commencement conditions, since submission of details after commencement and/or implementation would limit their effectiveness.
154. Conditions 1, 2 and 3 are standard conditions for outline planning permissions, however in order to hasten delivery of the much-needed housing, the development should commence within one year of approval of the last of the reserved matters. A written scheme of archaeological investigation is required to comply with LP Policy ENV4 and the NPPF, as well as a detailed CEMP to protect living conditions of local residents, including noise mitigation and restrictions upon construction hours, and to ensure that the highway and any new roads that are intended for adoption are not left in a damaged state after construction is complete. To ensure a satisfactory form of development on the site it is reasonable and necessary to impose a condition to require the submission and approval of a detailed Design Code for the development.
155. Conditions 7, 8 and 9 are required to secure the LEMP to protect and enhance the existing character of the area by reducing visual and environmental impacts of the development and ensuring habitat creation and management during the life of the development in compliance with the ecological assessment and reptile method statement. Conditions 10, 11 and 12 are needed to achieve the NBG in accordance with a coherent and well thought through strategy including the provision of a lighting design scheme.
156. Condition 20 is required to relieve the pressure on Hatfield Forest SSI by ensuring high-quality, informal, semi-natural areas are provided on site, including a dog walking circuit and a dogs off-lead area, in compliance with the Hatfield Forest Mitigation Strategy. Condition 25 is required to ensure that an arboricultural method statement is approved that identifies trees to be retained and measures to protect and manage them.
157. A land contamination condition, Condition 13, is necessary to ensure the land is suitable for its intended use, as well as Condition 14 to protect the permitted dwellings from rail noise through approval of the design and acoustic noise insulation performance of the external building envelope.
158. In the interests of highway safety Conditions 15 and 16 are required to secure a signal enhancement scheme at Grove Hill Junction, ensure the access from the development is satisfactorily provided before first occupation through the approved layout to the south, and to clarify that the indicative layout shows a crossroad immediately to the north of the access which is unlikely to be acceptable. The detail of such a layout should be a reserved matter.
159. Condition 17 is needed so that the proposed transport infrastructure is in place before any dwelling is occupied, so as to reduce the need for car travel. To promote sustainable development Condition 18 is necessary to secure an adequate number of footways and cycleways providing convenient, direct routes across the site and linking to the access points, and Condition 19 relating to electric charging points is required to mitigate air quality impacts.

160. A detailed surface water drainage scheme for the site is required by Conditions 21 and 22, including details of delivery during construction and to be maintained for the lifetime of the development in mitigation of flood risk. This would also meet the concerns of the safeguarding authority for Stansted airport by providing details of planting on the SuDs to deter birds from the site and presenting a bird strike hazard to aircraft. In the interest of safety of future occupants an Unexploded Ordnance Risk Assessment should be carried out before groundworks commence. To ensure that 5% of the dwellings are wheelchair accessible in accordance with LP Policy GEN2, I have attached Condition 23.

Overall conclusion

161. For the reasons given above I conclude that permission should be granted.

Grahame Kean

INSPECTOR

Schedule – Planning Conditions

1. Approval of the details of layout, scale, landscaping, and appearance (hereafter called 'the Reserved Matters') must be obtained from the Local Planning Authority in writing before the development commences and the development must be carried out as approved.

Reason: To comply with section 51 Planning and Compulsory Purchase Act 2004.

2. Application for approval of the Reserved Matters must be made to the local planning authority not later than the expiration of 2 years from the date of this permission.

Reason: To comply with section 51 Planning and Compulsory Purchase Act 2004.

3. The development hereby permitted must be begun no later than the expiration of 1 year from the date of approval of the last of the Reserved Matters.

Reason: To comply with section 51 Planning and Compulsory Purchase Act 2004.

4. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 006 V3; Building Heights PP 005 V3; Land Use, Open Space & Access PP 004 V3; Site Access Design 001 Rev P01.

Reason: To provide certainty.

Pre-commencement

5. No development shall commence until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and:
 - a) The programme and methodology of site investigation and recording;
 - b) The programme for post investigation assessment;
 - c) The provision to be made for analysis of the site investigation and recording;
 - d) The provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - e) The provision to be made for archive deposition of the analysis and records of the site investigation; and
 - f) The nomination of a competent person or persons/organisation to undertake the works.

Reason: To ensure the appropriate investigation of archaeological remains, in accordance with LP Policy ENV4 and the NPPF.

6. No development shall commence until a detailed Construction Environmental Management Plan (CEMP) shall have been submitted to and approved in writing by the Local Planning Authority, and the plan shall include the following:
- a) Hours of operation, site office locations, delivery, and storage of materials details;
 - b) Vehicle parking, turning, and loading arrangements;
 - c) Construction Traffic Management Plan;
 - d) Construction Dust Management Plan including wheel washing measures to control the emission of dust and dirt during construction including on the public highway;
 - e) Waste management plan;
 - f) Measures to limit noise and vibration from construction activities;
 - g) Risk assessment of potentially damaging construction activities;
 - h) Identification of 'biodiversity protection zones;
 - i) Measures to avoid or reduce impacts during construction which may be provided as a set of method statements;
 - j) The location and timing of sensitive works to avoid harm to biodiversity features;
 - k) The times during construction when specialist ecologists need to be present on site to oversee works;
 - l) Responsible persons and lines of communication;
 - m) The role and responsibilities on site of an ecological clerk of works or similarly competent person;
 - n) Use of protective fences, exclusion barriers and warning signs;
 - o) A scheme for early structural planting;
 - p) Measures to provide temporary localised surface water run-off management systems for construction stage activities;
 - q) A soil management plan for construction stage activities;
 - r) A Bird Hazard Management Plan to minimise the risk of bird strike;
 - s) Protection of any public rights of way within or adjacent to the site;
 - t) Remediation of damage caused to public rights of way within or adjacent to the site due to crossing by construction vehicles or as a direct or indirect result of the construction of the permitted development; and
 - u) Identification before and after condition survey, of defects to the highway in the vicinity of the access and within the Phase 1 development, and of necessary repairs which shall be undertaken where caused by development construction traffic.

The development must be carried out in accordance with the approved CEMP.

Reason: To minimise any adverse effects on air quality, in accordance with LP Policy ENV13 and the NPPF.

Ecology

7. Prior to first occupation a Landscape and Ecological Management Plan (LEMP) shall have been submitted to, approved in writing by, the Local Planning Authority. The LEMP shall include provision for habitat creation and

management during the life of the development hereby permitted, and shall include the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5-year period);
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring, remedial/contingency measures triggered by monitoring to ensure that conservation aims, and objectives are met; and
- i) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured and the management body or bodies responsible for its delivery.

The development must be carried out in accordance with the approved LEMP.

Reason: to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted in accordance with LP Policies GEN2 and ENV8 and the NPPF.

8. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (SES, October 2022), including the appointment of an appropriately competent person e.g. an ecological clerk of works to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out in accordance with the approved details.

Reason: to comply with LP Policies GEN7, ENV7 and the NPPF.

9. No development shall commence until a Reptile Method Statement is submitted to and approved in writing by the local planning authority which shall contain precautionary mitigation measures and works to reduce potential impacts to reptiles during the construction phase.

The measures and/works shall be carried out strictly in accordance with the approved details and shall be retained.

Reason: to comply with LP Policy GEN7, ENV7 and the NPPF

10. No development shall commence until a Biodiversity Net Gain Design Stage Report, in line with Table 2 of CIEEM Biodiversity Net Gain report and audit templates (July 2021), is submitted to and approved in writing by the local planning authority, using the DEFRA Biodiversity Metric 1.0 or any successor. The content of the Biodiversity Net Gain report should include the following:

- a) Baseline data collection and assessment of current conditions on site;
- b) A commitment to the Mitigation Hierarchy and evidence of how BNG Principles would be applied to maximise benefits to biodiversity;

- c) Full BNG calculations with plans for pre and post development and detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;
- d) Implementation measures and management of proposals; and
- e) Monitoring and auditing measures.

The proposed enhancement measures shall be implemented in accordance with the approved report and shall be retained.

Reason: to comply with LP Policy GEN7, ENV7 and the NPPF

11. Prior to any works above slab level a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) Detailed designs or product descriptions to achieve stated objectives;
- c) Locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) Persons responsible for implementing the enhancement measures; and
- f) Details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained.

Reason: to comply with LP Policy GEN7, ENV7 and the NPPF

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

No external lighting shall be installed other than in accordance with the specifications and locations set out in the scheme and the approved scheme shall be retained.

Reason: to allow the Council to discharge its duties under Conservation of Habitats and Species Regulations 2017 (as amended), Wildlife & Countryside Act 1981 as amended and s40 NERC Act 2006 (Priority habitats & species).

Environmental Health

13. No development shall take place until an assessment of the nature and extent of contamination, based on the findings of the Land East of Elsenham Preliminary Risk Assessment (September 2022), has been submitted to and approved in writing by the Local Planning Authority.

This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site, and must include: a survey of the extent, scale and nature of contamination; and an assessment of the potential risks to human health, the water environment, property (existing or proposed), service lines and pipes, adjoining land and any other receptors identified as relevant. If found to be necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. The scheme must include all works to be undertaken, proposed remediation objectives, an appraisal of remedial options, a timetable of works and site management procedures.

The remediation scheme for each phase shall be implemented in accordance with the approved timetable of works. Within 2 months of the completion of measures identified in the approved remediation scheme, a validation report demonstrating that the remediation objectives have been achieved must be submitted to and approved in writing by the Local Planning Authority.

In the event that contamination that was not previously identified is found at any time after the development of any phase has begun, development must be halted on that part of the site affected by the unexpected contamination. The contamination must be reported in writing within 3 days to the Local Planning Authority. An assessment must be undertaken in accordance with the requirements of this condition, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority. The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect human health and to ensure that no future investigation is required under Part 2A of the Environmental Protection Act 1990 and in accordance with LP Policy ENV14 and the NPPF.

14. Prior to first occupation of any dwelling a scheme for protecting the proposed dwellings from railway related noise shall be submitted in writing to the Local Planning Authority for approval. Details shall include the design, layout and acoustic noise insulation performance specification of the external building envelope, having regard to the building fabric, glazing and ventilation. The scheme shall be based on insulation calculations provided in British Standard 8233:2014, and World Health Organisation (WHO) Guidelines for Community Noise and shall be designed to achieve the following noise targets: Bedrooms (23.00- 07.00 hrs) 30 dB LAeq (8hrs), living Rooms (07.00- 23.00 hrs) 35 dB LAeq (16hrs) 55 dB LAeq (16hr) for noise levels in the external garden areas (or part thereof). The scheme shall be implemented as approved.

Reason: To ensure future occupiers enjoy a good acoustic environment and to protect their living conditions, in accordance with LP Policy ENV10.

Highways

15.No dwelling shall be occupied until a scheme has been submitted to and approved in writing by the local planning authority for the signal enhancement scheme at Grove Hill Junction, such scheme to include additional wireless vehicle detection and adjustment of signal times as necessary. The approved scheme shall detail implementation and funding arrangements for the delivery of the scheme.

Reason: to ensure the impacts of the permitted development do not adversely impact on the road network and in the interests of highway safety in accordance with LP Policies GEN1 and DM1

16.Prior to first occupation of any dwelling the access from the approved development (application UTT/21/3269/DFO) to the south shall be provided as shown in principle in drawing number 70084697-WSPXX-XX-DG-TP-0001 Rev P01 including 6m carriageway, 1 x 2m width footway, 1 x3.5m width shared cycleway/footway and the layout changes to the approved application, but excluding indicative layout detail on drawing 4697-WSP-00-XX-DR-CV-05101 Rev P01 which is a reserved matter.

Reason: to ensure the impacts of the permitted development do not adversely impact on the road network and in the interests of highway safety in accordance with LP Policies GEN1 and DM1.

17.Prior to first occupation of any dwelling the following transport infrastructure shall be provided:

- a) provision of real time passenger information within the shelter at the bus stop on the east of Station Road (Railway Station (o/s) ATCO number 1500IM2128) and a replacement pole, flag and real time passenger information sign at the bus stop on the west of Station Road (Railway Station (near) ATCO number 150018012004); and
- b) cycle parking facilities at the station a minimum of 5 secure covered spaces close to the station and a minimum of 2 Sheffield Stands at local shopping area, facilities to be situated on highway land details to be approved by the highway authority.

Reason: in the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with LP Policies DM9 and DM10.

18.No development shall commence until a scheme showing the footway cycleway network across the site and including a minimum of two convenient, direct routes linking to the proposed cycleway/footway to be provided as part of application UTT/21/3269/DFO and a minimum of three convenient, direct routes linking to the development to the south. The scheme shall provide details of surfacing, signing and lighting and shall be submitted to and approved in writing by the Local Planning Authority. The footway/cycleways shall be constructed in accordance with the approved scheme and made available for use prior to the occupation of the first dwelling hereby permitted.

Reason: in the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with LP Policies DM9 and DM10.

19. Prior to first occupation of any dwelling hereby permitted an electrical vehicle charging point shall be provided in accordance with the Building Regulations - Infrastructure for charging electric vehicles: Approved document S 2021 edition.

Reason: to mitigate the harm for poor air quality due to the increase in vehicle movement in accordance with LP Policy ENV13, and in the interests of promoting sustainable transport in accordance with the NPPF.

The National Trust

20. Prior to first occupation details regarding the on-site measures aimed at relieving the pressure on use of Hatfield Forest shall be submitted to and approved in writing by the Local Planning Authority to include:

- a) high-quality, informal, semi-natural areas, to be provided prior to first occupation of the dwellings (including a dog walking circuit and dogs off lead area); and
- b) any other on-site mitigation as advised by Natural England.

Reason: to comply with the Hatfield Forest Mitigation Strategy

Drainage

21. Prior to the commencement of development a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include but not be limited to:

- a) Limiting discharge rates partly via infiltration and partly to 9.7l/s for all storm events up to and including the 1 in 100-year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated;
- b) Final modelling and calculations for all areas of the drainage system;
- c) The appropriate level of treatment for all runoff leaving the site, in line with the simple Index Approach in chapter 26 of the Construction Industry Research and Information Association SuDS Manual C753;
- d) Detailed engineering drawings of each component of the drainage scheme;
- e) A final drainage plan which details exceedance and conveyance routes, finished floor levels and ground levels, and location and sizing of any drainage features;
- f) A written report summarising the final strategy and highlighting any minor changes to the approved strategy; and
- g) A programme for the delivery of the surface water drainage scheme ensuring necessary provision of surface water drainage infrastructure throughout the construction phase of the development until completion.

The scheme shall be implemented as approved.

Reason: To ensure the SuDS are maintained for the lifetime of the development so that they continue to function as intended to ensure mitigation against flood risk, in accordance with LP Policy GEN3 and the NPPF.

22. Prior to first occupation of any of the dwellings hereby permitted a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities and frequencies, shall be submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long-term funding arrangements shall be provided.

Yearly logs detailing the maintenance of the surface water drainage system in accordance with the approved scheme in Condition 21 shall be available for inspection upon request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development so that they continue to function as intended to ensure mitigation against flood risk, in accordance with LP Policy GEN3 and the NPPF.

23. 5% of the dwellings approved by this permission shall be built to Category 3 (Wheelchair user) housing M3 (3)(2)(a) wheelchair adaptable. The remaining dwellings must be built to Category 2: Accessible and adaptable dwellings M4 (2) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.

Reason: to comply with LP Policy GEN2 (c) and the subsequent SPD on Accessible Homes and Playspace.

24. No preliminary groundworks shall commence until an Unexploded Ordnance Risk (UXO) Assessment is submitted to and approved in writing by the Local Planning Authority. The UXO Assessment shall include details of risk mitigation measures, how mitigation will be implemented, procedures should high risk ordnance not previously identified be encountered, and the reporting regime. The mitigation shall be undertaken in accordance with the approved assessment.

Reason:

25. No development shall commence until a detailed arboricultural method statement is submitted to and approved in writing by the Local Planning Authority. The statement shall identify trees to be retained as part of the development and shall include details of measures to protect and manage those trees during and after the construction stage of the development. The development shall be undertaken in accordance with the approved statement.

Reason: to minimise the loss of trees and comply with LP Policy ENV3.

26. Without prejudice to compliance with other conditions attached to the development hereby permitted no development shall take place until a Design Code for the site has been submitted to and approved by the local planning authority. Development shall be carried out in accordance with the Design Code which shall address the following matters:

- Architectural and sustainable construction principles;
- Character areas;
- Lifetime homes standards;
- Street types and street materials;

- Development block types and principles;
- Car parking principles;
- Cycling provision;
- Pedestrian and cycle links to adjoining land;
- Public transport routes;
- Boundary treatments;
- Buffer strips between the housing and railway,
- Building types, heights and materials;
- Sustainable urban drainage systems;
- Public open spaces;
- Lighting strategy;
- Provision for refuse and recycling;
- Implementation.

For information:

i. In determining this application, the Planning Inspectorate, on behalf of the Secretary of State, has worked with the applicant in a positive and proactive manner. In doing so, no substantial problems arose which required the Planning Inspectorate, on behalf of the Secretary of State, to work with the applicant to seek any solutions.

ii. The decision of the appointed person (acting on behalf of the Secretary of State) on an application under section 62A of the Town and Country Planning Act 1990 ("the Act") is final, which means there is no right to appeal. An application to the High Court under s288(1) of the Town and Country Planning Act 1990 is the only way in which the decision made on an application under Section 62A can be challenged. An application must be made within 6 weeks of the date of the decision.

iii. These notes are provided for guidance only. A person who thinks they may have grounds for challenging this decision is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655) or follow this link: <https://www.gov.uk/courts-tribunals/planning-court>.