

**Land at Tilekiln Green,  
Stansted, Great Hallingbury,  
CM22 7TA**

**Planning Statement to support  
the creation of a new open  
logistics facility**

FKY Limited

5<sup>th</sup> April 2023

**LICHFIELDS**

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## 1.0 Introduction

1.1 This Planning Statement has been prepared by Lichfields on behalf of the applicant FKY Limited to accompany a S62A application for the proposed development of land at Tilekiln Green, off Dunmow Road, Great Hallingbury, CM22 7TA for a new open logistics facility.

1.2 The planning application includes full details of the layout, use, amount, scale, landscaping and appearance of the development. The description of development is:

*“The development of the site to create an open logistics facility with associated new access, parking areas and ancillary office and amenity facilities.”*

1.3 The purpose of this Planning Statement is to assess the proposed development against the relevant planning policy framework in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

### Planning Application Documents

1.4 The following documents are submitted in support of the full planning application.

- 1 Air Quality Assessment prepared by Fichtner Consulting Engineers Ltd, and Addendum dated March 2023;
- 2 Archaeological Desk Based Assessment prepared by Purcell Ltd;
- 3 Commercial Site Availability Note, prepared by Coke Gearing;
- 4 Design and Access Statement prepared by PRC Architecture & Planning Ltd;
- 5 Ecological Assessment and Ecology Update dated March 2023, prepared by Ecology Solutions;
- 6 Bird Strike Hazard Management Plan prepared by Ecology Solutions;
- 7 Biodiversity Checklist prepared by Ecology Solutions;
- 8 Economic Report prepared by Lichfields;
- 9 Flood Risk Assessment, prepared by Intermodal Transportation Ltd;
- 10 SuDS Checklist, prepared by Lichfields;
- 11 Glint and Glare Assessment produced by Pager Power;
- 12 Heritage Impact Assessment produced by Purcell Ltd;
- 13 External Lighting Strategy produced by KTA and the following plans:
  - a 10398-EXT-01B External Lighting Lux Level Plot;
  - b 10398-EXT-02 External Lighting Spill Level Plot;
  - c 10398-EXT-03 External Lighting Vertical Plane Light Spill Calculations;
- 14 Landscape & Visual Appraisal including separate Landscape Figures 1-8 and Photosheets 1-16 produced by Nigel Cowlin Ltd;
- 15 Landscape Strategy (NC18.446-P204B) and Restocking Plan (NC18.446-P203A) produced by Nigel Cowlin Ltd;
- 16 Noise Assessment produced by Sharps Acoustics including March 2023 update;
- 17 Plans and sections produced by PRC Architecture & Planning Ltd:
  - a Proposed Layout (PL\_1001 Rev K);

- b Site Section (PL\_1002);
  - c Proposed Illustrative Section (PL\_1003 Rev A) and
  - d Site Location Plan (PL\_1000 Rev F).
- 18 Transport Assessment produced by Intermodal Transportation Ltd including March 2023 addendum;
- 19 Transport Plans:
- a IT1896\_ATR\_03 – Max Legal Articulated Vehicle Accessing and Egressing Site;
  - b IT1896\_SK001 Rev K – Possible Access Junction Layout;
  - c IT1896\_SK1001 – Forward Visibility Approaching Proposed Ghost Island.
- 20 Rent a Unit drawing No. 22-22956-01, Rev A;
- 21 Fence specification document

## Structure of Planning Application

- 1.5 This Planning Statement is structured as follows:
- **Section 2** - describes the site, its context and planning history including previous planning applications relating to the site;
  - **Section 3** - provides a summary of the proposed development;
  - **Section 4** - sets out the relevant planning policy context;
  - **Section 5** - assesses the development against relevant planning policy;
  - **Section 6** – discusses the proposals in the context of the previous reasons for refusal; and
  - **Section 7** – sets out the conclusions.

## 2.0 Background

- 2.1 Wren Kitchens (hereafter referred to as ‘Wren’) is one of the largest and most recognised kitchen retailers in the domestic market with an award-winning distribution network. The company employs over 8,000 people and is the largest employer in the Humber region, where its main offices and factory are based and has substantially provided employment for jobs lost in Scunthorpe in the steel industry. Apart from the Barton manufacturing facility, there are seven regional depots located in Howden, Barton, Bristol, Stansted, Larkhall, Manchester and Glasgow and 99 showrooms across the UK. Currently, the operator delivers over 2,000 kitchens every week across the UK with an on-time accurate delivery rate of 99.5%.
- 2.2 Wren currently rents a logistics site on Stansted Airport but the lease is terminable on one year’s notice and Wren do not therefore have any security of tenure. This is a precarious position because a site for a southern depot within this local area is critical for the business for reasons explained in Section 5.0. No alternative sites exist in the Uttlesford area as demonstrated in Section 5.0.
- 2.3 The company is growing substantially. The main manufacturing facility at Barton secured permission for a significant expansion in 2021 for the erection of a 100,000m<sup>2</sup> (c. 1m ft<sup>2</sup>) facility adjacent to the current manufacturing unit, reflecting the growth that the company is experiencing. In addition, Wren has two bases in Scunthorpe and one in Howden. Over the last two years, more than 100 showrooms and two regional depots have opened nationwide, with three more depots being on planning or initial development stages. The current forecast suggests an annual growth rate between 20% and 30% for the next couple of years.
- 2.4 It should also be highlighted that the company is planning to invest in high-tech and low carbon electric urban fleet to comply with environmental regulations in the near future, particularly with regards to servicing urban conurbations such as London.

### Land ownership

- 2.5 Wren is a privately owned company. Wren in turn rents its commercial property from private trusts held by the owners of the company. FKY Limited is the trust which owns this property and which will rent the land, should the application be successful, to Wren.
- 2.6 The Site was acquired by the trust with the hope that planning permission might be granted given the lack of available commercial land for this use in this area.

### Site and Surroundings

- 2.7 The site currently comprises an area of fields and woodland accessed from the north-east via Tilekiln Green. There are no buildings on the site. However, it sits adjacent to a cluster of residential properties to the south-east corner as well as The Old Elm to the north east corner, a Grade II Listed Building.
- 2.8 The site is located directly south of the B1256 (former A120) just east of the M11 junction 8. The site is bound to the north by the B1256 and to the east by Tilekiln Green. To the south the site is bound by a disused railway line, which is also part of the historical footpath ‘Fritch Way’ pedestrian / cyclist route. To the west of the site boundary is agricultural land, with Great Hallingbury Brook forming the south western boundary, leading into a ditch running along the southern boundary.

## Planning History

### Original Planning Application

- 2.9 The site has been the subject of two previous planning applications, the first of which (ref. 21/0332/FUL) was submitted to Uttlesford District Council (UDC) on the 2<sup>nd</sup> February 2021.
- 2.10 The proposals formed a similar scheme to that sought within this application, with development of the site proposed to create a new open logistics facility with associated new access, parking areas and ancillary office and amenity facilities.
- 2.11 The application was refused on the 26<sup>th</sup> May 2021. Whilst it was accepted within the officer's report that, "*the applicant's selected alternative logistics facility location at Tilekiln Green would be a highly appropriate location strategically and operationally for it given the site's immediate access onto the M11 and the A120*" the proposed development was refused. The decision notice included nine reasons for refusal, which can be summarised into five primary themes:
- 1 Principle of development within an area designated as Countryside Protection Zone (CPZ);
  - 2 Highway Safety;
  - 3 Heritage impact on the Grade II listed building known as The Old Elm;
  - 4 Omission of a Lighting Scheme and Glint and Glare Assessment;
  - 5 Omission of an Air Quality Assessment; and
  - 6 Further noise modelling required to be included as part of the noise assessment.

### Second Planning Application

- 2.12 Following the refusal of the first planning application, extensive revisions were made to the proposals which included:
- 1 In discussions with Essex County Council (ECC) in their role as Highway Authority, a reworked parking arrangement and additional transport safety measures were incorporated to address concerns over Highway Safety;
  - 2 The scale of development on the eastern boundary of the site, opposite the listed building, was reduced. The line of development on this boundary was moved 22m further back from the edge of the site, with the screening now proposed to utilise acoustic closeboarded fence rather than palisade fencing;
  - 3 Further reports including a lighting strategy, air quality assessment and a glint and glare assessment were included, informed by ongoing discussions with Manchester Airport Group (MAG) in its role as operator of Stansted Airport to ensure that the forms of mitigation and design features incorporated result in a fully compliant, safe scheme.
- 2.13 A second planning application was subsequently lodged (ref 22/0267/FUL) to address the previous reasons for refusal and received by the Council on the 2<sup>nd</sup> February 2022. The proposals to which this statement relate are identical to application ref. 22/0267/FUL (as determined) and are therefore submitted under S62A of the T&CP Act 1990 for determination by the Secretary of State in light of Uttlesford District Council's designation.
- 2.14 The applicant worked closely with the Council and relevant consultees throughout the determination process of the second application, including further extensive revisions to the alignment of Tilekiln Green and site access to provide comfort to ECC Highways that the proposals would result in a safe scheme.



- 2.15 As a result of the revisions to the scheme following the first planning application (21/0332/FUL), the majority of the previous reasons for refusal were successfully addressed through the scheme, with the relevant consultees confirming that they had no objection to the proposals. However, objections were received from the heritage officer, on the basis of a ‘*low level of less than substantial harm*’ to the Grade II listed building on the opposite side of Tilekiln Green, and the landscape officer, due to the location of the site within the Countryside Protection Zone (CPZ).
- 2.16 Given the low level of harm that the heritage officer indicated, the officer’s report considered that:  
*“It is considered that the proposal, with the mitigation proposed, would not impact the setting of the Listed building to such an extent to warrant refusal.”*
- 2.17 Further, on landscape, whilst the officer’s report acknowledged the concerns regarding landscape impact, the substantial supplementary woodland and tree planting was noted, with the overall advantages and economic benefits of the scheme to outweigh the potential landscape issues. The officer’s report states:  
*“The site at Tilekiln Green would be a highly appropriate location strategically and operationally for it given the site’s immediate access onto the M11 and the A120 including an improved access arrangement as proposed. The land at Tilekiln Green provides a unique site in that it is readily available in a heavily constricted market which can meet the requirements of the operator.”*
- 2.18 The application was subsequently recommended for approval by the case officer and heard at planning committee on the 8<sup>th</sup> February 2023. The Committee Report is included at Appendix 1. However, despite the clear recommendation of the officer, the application was refused by the planning committee, with the decision notice subsequently being issued on the 14<sup>th</sup> February 2023. The reasons for refusal are summarised in brief below. The decision notice including the full reasons for refusal is included at Appendix 2.
- 1 The proposed development would have an adverse impact on the existing open character and appearance of the site within the CPZ;
  - 2 The proposed development would cause less than substantial harm to the setting and significance of the Old Elm;
  - 3 The development would result in unacceptable material disturbance to occupiers of surrounding properties to the detriment of their residential amenity; and
  - 4 A Section 106 agreement had not been secured.
- 2.19 The reasons for refusal are discussed in further detail in section 6.0 of this statement.

## 3.0 Proposed Development

### Scheme Proposal

- 3.1 The scheme proposes a new open logistics facility where storage containers are decanted from larger vehicles onto smaller ones through ‘*demountable operations*’. Through detailed consideration of traffic movement data produced at the existing Wren facility, it is considered that such an operation does not reflect the movements of a standard B8 logistics use. As such, it is considered that these operations are best associated with a bespoke Sui Generis use.
- 3.2 The proposals remain identical to those proposed in the most recent planning application (22/0267/FUL) with the site extending to 5.12 hectares (ha), of which some 3.02 ha is proposed to be developed. The remainder of the site which expands around the edges of the developed area, will remain in its current condition, that being predominantly woodland or areas of the open land where significant new tree planting is proposed.
- 3.3 The open logistics facility will comprise mainly of an area of hardstanding for heavy goods vehicles (“HGVs”) and urban vehicles (lorries) parking and circulation space. In addition, there will be 20 electric charging points for vehicles located on site, with sufficient shelter for 20 bicycles.
- 3.4 The four primary HGV areas that are proposed for the site cover an area of 1.63ha (approximately four acres). Through previous experience, Wren typically consider that 20 HGVs can be accommodated per acre, and therefore the maximum potential parking on the site is for c.80 HGVs. There is a total of 107 car parking spaces on site of which six are designed as disabled spaces. A full breakdown of the proposed parking provision is shown in the table below.

Table 3.1 Parking Provision

Vehicle Type	Number of Spaces
HGV	80
Car	107, inclusive of 6 disabled spaces
Bicycle	20
Motorcycle	7

- 3.5 As noted above, the operations on-site will include decanting storage containers from larger vehicles onto smaller ones through demountable operations which will then transport these containers to local markets. Other on-site facilities will include parking for drivers and porters and two small portacabin office/amenity facilities.
- 3.6 As can be seen on the proposed layout plan, the development is focussed towards the centre of the site which enables a significant amount of landscaping around the perimeter of the site including an extensive series of tree planting. On the north-eastern perimeter of the site close to the realigned highway, palisade fencing is proposed at 1.8m in height for security reasons, whilst on the south-eastern side of the site where the car parking is located, acoustic close boarded fencing is proposed.
- 3.7 In order to facilitate the movement of HGV vehicles, it is proposed to realign the northern part of Tilekiln Green and widen the B1256 to the south. This will improve vehicular access to the site to safely facilitate additional HGV movements and eliminate the existing highway safety issues associated with the local road network. A new access point will then subsequently be created onto the realigned Tilekiln Green to form the main access to the site.

## 4.0 Planning Policy Considerations

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts and that the determination should be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 4.2 This section of the Planning Statement details the planning policy context for the application, describing the Development Plan policies relevant to the consideration of the scheme, as well as providing an account of the prevailing policy guidance in the National Planning Policy Framework (NPPF 2021) and other documents that represent appropriate material considerations.
- 4.3 It is noted that Uttlesford District Council's Local Plan was adopted in 2005, seven years before the original NPPF in 2012, therefore, the Local Plan is considered to be out of date. Inspector Dominic Young in the Appeal case ref APP/C1570/W/19/3242550 noted that the Local Plan expired more than 10 years ago and "*there can be little doubt that the local plan is now painfully out of date*". The 2005 Local Plan is founded on an evidence base that is nearly 20 years old and a spatial strategy that does not address the latest development needs. Nonetheless, this Planning Statement assesses the proposals against the Local Plan policies where these are considered to be relevant.
- 4.4 The previous emerging Local Plan was withdrawn in Jan 2020 and therefore there are no current emerging Local Plan policies applicable to this case.

### Statutory Development Plan

- 4.5 The Statutory Development Plan comprises:
- Uttlesford Local Plan (2005);
  - Essex Minerals Local Plan (2014); and
  - Essex and Southend-on-Sea Waste Local Plan (2017).

### Material Considerations

#### National Planning Policy

- National Planning Policy Framework 'NPPF' (2021); and
- Planning Practice Guidance ('PPG') (various iterations).

#### Local Guidance

- Essex Development Management Policies (2011); and
- Essex County Council Parking Standards (2009).

### Overview of Key Policy and Material Considerations

- 4.6 The prevailing policies across the various documents establish a number of policy themes that assist in the consideration of the proposed development.
- 4.7 Table 4.1 considers these themes which are grouped together in the next section and provides an assessment of the development proposals against national planning policy, the Uttlesford Local Plan and other material considerations.

Table 4.1 Summary of policy themes and relevant information in the planning submission

Key Considerations	NPPF (July 2021)	Uttlesford District Local Plan (2005)	Other material planning Considerations	Planning Submission
Principle of Development	Chapter 4 Decision-making	Section 2 – Policy S8): Where will development take place?		Planning Statement Para 5.2 onwards
Economic Activity	Chapter 6: Building a strong, competitive economy	Section 4 – Policy E3 Economic Activity		Planning Statement Para 5.12 onwards Economic Report
Design	Chapter 12: Achieving well-designed places PPG ID: 26	Section 3 – Policy GEN2: General Planning Policies		Planning Statement Para 5.19 onwards Design and Access Statement
Transport	Chapter 9: Promoting Sustainable Transport PPG ID: 42-013-20140306	Section 3 – Policy GEN1, GEN8: General Planning Policies Section 9 – Transport and Telecommunications	Essex Development Management Policies Essex Parking Standards: Design and Good Practice Guide	Planning Statement Para 5.24 onwards Transport Assessment
Heritage/Conservation	Chapter 16: Conserving and Enhancing the Historic Environment	Section 5 – Policy ENV2:Environment, Built and Natural		Planning Statement Para 5.33 onwards Heritage Impact Assessment
Archaeology	Chapter 16: Conserving and Enhancing the Historic Environment	Section 5 – Policy ENV4:Environment, Built and Natural		Planning Statement Para 5.38 onwards Archaeology Statement
Noise	Chapter 15: Conserving and Enhancing the Natural Environment	Section 5 -Policy ENV10/11: Environment, Built and Natural		Planning Statement Para 5.42 onwards Noise Assessment
Landscape and Visual Impact	Chapter 15: Conserving and Enhancing the Natural Environment	Section 5 -Policy ENV9: Environment, Built and Natural		Planning Statement Para 5.47 onwards and Landscape and Visual Impact Assessment
Ecology	Chapter 15: Conserving and Enhancing the	Section 5 -Policy ENV7: Environment, Built and Natural		Planning Statement Para 5.51 onwards

Key Considerations	NPPF (July 2021)	Uttlesford District Local Plan (2005)	Other material planning Considerations	Planning Submission
	Natural Environment			Ecology Report and Supplementary Badger Appendix
Flood Risk and Sustainable Drainage	Chapter 14: Meeting the Challenge of Climate Change, Flooding and Coastal Change	Section 3 – Policy GEN3: General Planning Policies		Planning Statement Para 5.57 onwards and Flood Risk Assessment
Air Quality	Chapter 15: Conserving and Enhancing the Natural Environment	Section 5 – Policy ENV13: Exposure to Poor Air Quality	Uttlesford Air Quality Technical Planning Guidance	Planning Statement Para 5.61 onwards Air Quality Assessment
Lighting	Chapter 15: Conserving and Enhancing the Natural Environment	Section 3 – Policy GEN5 – Light Pollution		Planning Statement Para 5.66 and Lighting Strategy

Source: Lichfields analysis

## 5.0 Assessment of Proposed Development

5.1 This section assesses the proposed development against the relevant planning policies summarised in the previous section including the following:

- 1 The principle of development;
- 2 Economic activity;
- 3 The development's scale, layout and design;
- 4 Transport, access and parking;
- 5 Heritage;
- 6 Archaeology;
- 7 Noise;
- 8 Landscape and Visual Impact;
- 9 Ecology;
- 10 Flood risk and sustainable drainage;
- 11 Air Quality;
- 12 Lighting; and
- 13 Glint and Glare.

### Principle of Development

5.2 The site sits within the Countryside Protection Zone (CPZ) identified in Policy S8 which, as described within the 2005 Uttlesford Local Plan (hereafter referred to as the 'Local Plan'), is implemented to maintain a local belt of countryside around Stansted Airport that will not be eroded by coalescing developments. Policy S8 specifically states that the CPZ is an area within which "*planning permission will only be granted for development that is required to be there, or is appropriate to a rural area*". The policy goes on to state that:

*"There will be strict control on new development. In particular development will not be permitted if either of the following apply:*

*a) New buildings or uses would promote coalescence between the airport and existing development in the surrounding countryside;*

*b) It would adversely affect the open characteristics of the zone."*

5.3 As set out above, Policy S8 considers that planning permission may be granted for development that is required to be within that location. The particular locational advantages of this site for this use are explored in full detail in the accompanying Economic Report prepared by Lichfields, but it is evident that this particular location, proximate to Junction 8 of the M11, under a one-hour drive from London, and within a short distance of Stansted Airport provides an excellent location for a logistics facility.

5.4 Further, paragraph 83 of the NPPF emphasises how planning decisions should recognise and address the specific locational requirements of storage and distribution, at a variety of scales and in suitably accessible locations.

5.5 As such, whilst it is noted that the site falls within the CPZ (based on an out-of-date Local Plan, which was not formulated in the context of up-to-date development needs), it is considered that - given the location of the site and the need for the specific requirements of different sectors to

be considered i.e. logistics operations - the principle of an open logistics facility on the site is acceptable (i.e. it is required to be there).

- 5.6 Notwithstanding our position on the scheme's adherence with this policy, it should also be acknowledged that by virtue of the Local Plan being considerably out of date, it is consequent that the restrictive Policy S8 is also out of date and should be afforded little weight, a view supported by recent appeal decisions (see paragraph 6.7).
- 5.7 The Uttlesford Local Plan was adopted in January 2005 and is therefore over 18 years old. It also sought to address needs that extended only to 2011 pursuant to the now revoked RSS for the East of England. As such, the CPZ, which was drawn up as part of the Local Plan, was on the basis of the land that could be protected after considering a level of housing and employment need that is now significantly out of date. As is detailed in the Economic Activity section below, there are now unmet employment needs in the district with a significant shortfall in the provision of employment land in Uttlesford. This is unsurprising given the South East Local Enterprise Partnership's Strategic Economic Plan (2014) confirms that the area along the A120/M11 Growth Corridor is a key growth area, which the Uttlesford Local Plan obviously does not respond to. The CPZ policy was formulated to protect land around Stansted taking into account a previous view on development needs (both for Stansted and more generally) that is not up to date.
- 5.8 As noted in the Officer's report for the second and most recent application (ref. 22/0267/FUL), there is a need for up to 43.9ha of industrial land within the district to 2040 (para 14.3.25). There is currently no emerging Local Plan for Uttlesford District to which any weight can be attached. In the absence of an up-to-date plan and spatial strategy to address this need, insufficient employment land has been made available for businesses seeking to either locate or relocate within the District. This is counter-intuitive to supporting employment needs and future growth within the District.
- 5.9 Further, the policy is not consistent with the NPPF which was introduced six years after the adoption of Uttlesford's Local Plan. The NPPF does not impose a blanket restriction on development outside of defined settlements, except where these are considered 'valued landscapes'. The ambitions of Policy S8 to restrict development in the CPZ are not consistent with the approach set out in the NPPF which seeks to weigh harm against benefits.
- 5.10 As such, the principle of development should be considered under para 11 d) of the Framework which states that (emphasis added):
- 'where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:*
- the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*
- 5.11 As demonstrated above, the policy most important for determining the principle of development (Policy S8) is out of date and accordingly, paragraph 11 of the NPPF is engaged and therefore, as a matter of principle, sustainable development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. We explain that no such adverse impacts exist in the remainder of this statement.

## Economic Activity

- 5.12 Based on the contents of the Economic Report considered by the council as part of the first application, the Council has accepted the principle of economic development at this site. This was confirmed by the below extract from page 16 of the Delegated Officer Report for application ref. 21/0332/FUL:
- “The applicant’s comments that it is required to relocate from Stansted Airport “North Side” by 2023 due to lease implications and the consequential loss of staff employment that this would result in are duly noted. It is accepted in this respect that the applicant’s selected alternative logistics facility location at Tilekiln Green would be a highly appropriate location strategically and operationally for it given the site’s immediate access onto the M11 and the A120, including an improved access arrangement as proposed.” (Lichfields emphasis added)*
- 5.13 As noted in paragraph 2.2, the lease has been extended but Wren are now on one year’s notice at any time. Essentially therefore, Wren remains in the same temporary position in respect of their occupation of their existing site. The Economic Report should accordingly be read in this context and the findings of the report remain material to the decision. This report is complemented by the more recent findings of Coke Gearing (as referred to in paragraph 6.10 below). In addition, since the Economic Report was written, an outline application submitted by Threadneedle Curtis Limited has been approved (subject to a Section 106 agreement) for the redevelopment of “North Side” to provide *“195,100sqm commercial/employment development predominantly within Class B8 with Classes E(g),B2 and supporting food retail/food/beverage/nursery uses within Classes E(a), E(b) and E(f) and associated access/highway works, substation, strategic landscaping and cycle route with matters of layout, scale, appearance and other landscaping reserved.”* (application ref. UTT/22/0434/OP). As noted in paragraph 4.40 of the Economic Report and now reflected in the planning application by Threadneedle, this scheme is for higher value modern warehousing and offices.
- 5.14 As identified in Section 4 of the Local Plan, Uttlesford’s economic objectives include enabling the expansion of existing firms and the introduction of new employment. The proposal would develop the site for a logistics use. Given that Wren’s existing site at the North Side distribution depot will no longer be available if notice is given, all of the existing jobs will be lost. As such it is considered that the development of the site would result in the safeguarding of approximately 130 jobs, although the scope of the proposal would support the expansion of the work force to c.200 staff in total, an increase of 70. This would include primary HGV drivers, smaller lorry drivers, and a small quantum of office staff, thereby providing a range of jobs. The combination means a net additionality of local employment of up to 200 jobs directly with more indirect and induced employment as set out in the Economic Report.
- 5.15 The accompanying Economic Report (as submitted with the previous application) also sets out detailed analysis which identifies a current unsatisfied requirement of at least 35ha for land for distribution purposes. The Council’s latest evidence supports this assessment and identifies an unmet need of up to 43.9ha of industrial land. The location in question has a particularly strong demand for such space, which is in significant part due to the proximity of the site to Stansted Airport, in addition to the excellent transport links to London via the M11.
- 5.16 This should be seen in the context of paragraph 8 of the NPPF which confirms that the planning system has three overarching objectives, of which part a) confirms an economic objective, which considers that one of the means of building a strong, responsive and competitive economy is to ensure that sufficient land of the right types is available in the right places and at the right time to support growth. In addition, paragraph 82 of the NPPF emphasises how planning decisions



should recognise and address the specific locational requirements of storage and distribution, at a variety of scales and in suitably accessible locations.

5.17 The Economic Report demonstrates that the site at Tilekiln Green falls within the area of search for which demand for transport and storage is currently unmet. Furthermore, a number of characteristics unique to this site provide a highly attractive location for the siting of an open logistic facility. Further explanation of these characteristics is included at paragraph 5.19 of the economic report but are noted below:

- Accessibility;
- Proximity to market;
- Land availability;
- Suitable scale;
- Labour accessibility; and
- Neighbouring uses.

5.18 There is a strong economic case for the proposal which accords with both Section 4 of the Local Plan, and paragraphs 8, 80, and 82 of the NPPF. It is considered that the particular characteristics of the site make it highly suited to logistics use, the increase in local employment opportunities and the ability to help meet demonstrable unmet need of logistics space in Uttlesford District should be given considerable weight in the planning balance.

### **Scale, layout and design**

5.19 Policy GEN2 of the Local Plan sets out that development needs to safeguard important environmental features in its setting, enabling their retention and helping to reduce the visual impact of new buildings and structures where appropriate. Due to the nature of the scheme there are no significant structures proposed on site, but where portacabins are proposed these are kept to single storey in height, with the proposed image shown in the Design and Access Statement (DAS) and an accompanying plan also submitted with the application detailing the specifications.

5.20 Policy GEN2 also confirms that development must have regard to adopted supplementary planning guidance in respect of layout and design. The most recent piece of guidance to which the Local Plan refers is the Essex Design Guide (EDG). Whilst this document is predominantly aimed at housing developments, there are a number of high-level principles and specific guidance which the development has had regard to. The guidance confirms that logistics use requires a large amount of vehicular access and circular space due to the size of vehicles involved in logistics.

5.21 Through an extensive consideration of the site and most appropriate use of space, the HGV parking areas have been split into four independent areas, with 2 primary areas and 2 smaller areas. Due to the contouring of the site, parking zone levels are set at 1:60 to facilitate a series of naturally draining plateaus, with the 4 independent zones of HGV parking accessed via a series of 1:20 ramps. As detailed earlier in this planning statement, development on the eastern boundary of the site has been reduced by 22m from the original proposals.

5.22 Given the low profile of structures on site, and the considered layout of the parking areas, it is considered that the proposal accords with Policy GEN2 of the Local Plan.

5.23 During the course of the most recent planning application, no objection was received from the Council's design officer, and the case officer acknowledged that no permanent buildings are proposed on the site, with only two temporary portacabins located on the hardstanding to

facilitate general administrative work. The parking proposed is in accordance with Policy GEN8 and therefore the parking areas were considered appropriate by ECC Highway's team.

## Transport and Access

- 5.24 Given the nature of the scheme it is pivotal that that access to the strategic road network is facilitated in an effective and safe manner. Policy GEN1 requires that access to the main road network must be capable of carrying the traffic generated by the development safely and of being accommodated on the surrounding transport network.
- 5.25 Through initial consideration of Tilekiln Green which runs along the eastern boundary of the site, it was established that improvements needed to be made to the highway network in order to facilitate the proposed development. As part of these improvement works it is proposed to realign the northern part of Tilekiln Green and widen the B1256 to the south in order to improve vehicular access to the site and to eliminate the existing deficiencies / highway safety issues associated with the local road network. It is also considered that the realignment of the road would remove the currently achievable 'straight across' movement between Tilekiln Green and the petrol filling station to the north which is considered to have resulted in a number of personal injury accidents in this location.
- 5.26 There are a number of highway benefits as a result of the proposed highway works associated with the proposed development, the details of which are set out in the Transport Assessment. In summary it is proposed to widen the junction bellmouth; increase the width of the ghosted right turn lane on the B1256; straighten the immediate approach of Tilekiln Green to the B1256; increase the visibility of the Advanced Directional Sign adjacent to the junction; and increase forward visibility of vehicles entering the B1256 from junction 8 of the M11.
- 5.27 In order to further establish highway safety, a stage 1 road safety audit of the proposed junction layout has been undertaken. This includes the results of a speed survey which indicate that the proposed access junction should be regarded as acceptable from a highways safety design perspective, and therefore the proposed access junction should be regarded as sufficient to accommodate the largest vehicles likely to use it, i.e. a max legal Heavy Goods Vehicle (HGV) and a large rigid HGV.
- 5.28 The Transport Assessment also confirms that the proposal would be unlikely to attract significant traffic levels during the weekday AM and PM peak hours, capacity assessments have also been undertaken at the junction which demonstrate that no capacity issues are expected well into the future.
- 5.29 In addition, Policy GEN8 of the Local Plan refers to the need to have regard to relevant vehicle parking standards. As such, the Essex Car Parking Standards have also been considered with the relevant standards having been applied to the proposed hardstanding (20.912sqm) to confirm the maximum and minimum car and cycle parking, which can be seen in Table 3.1 above.
- 5.30 It can therefore be considered that the proposal complies with Policy GEN1 and GEN8 of the Local Plan and the relevant Essex Parking Standards.
- 5.31 During the determination of the recent planning application, ECC Highways were satisfied that the revised junction layout at Tilekiln Green and the B1256 was acceptable in highways safety terms following the receipt of swept path analysis and further technical drawings. ECC Highways also concluded that the site is located close to the strategic road network and therefore the impact on local roads would be limited, and that most of the traffic movements in and out of the site were not during peak hours and traffic generation arising from the proposals could be accommodated. As such, both ECC Highways and National Highways had no objection to the proposals.

- 5.32 The applicant has agreed to a contribution of £40,500 for improvement works to the Flich Way and a draft Section 106 Agreement is attached (see section 7.0).

## Heritage

- 5.33 The conclusions of the Heritage Impact Assessment are unchanged from those in the previous application.
- 5.34 Whilst the site does not fall within a Conservation Area, directly east of the site is a Grade II listed building 'The Old Elm'. Policy ENV2 of the Local Plan confirms that development proposals that adversely affect the setting or special characteristics of a listed building will not be permitted. Further, paragraphs 194 and 195 of the NPPF require that appropriate justification and mitigation be advanced should it be considered that there would be any harm or loss of significant to a heritage asset.
- 5.35 An accompanying Heritage Impact Assessment has been prepared which demonstrates that the significance of the development site is of a low historic and aesthetic significance, with a neutral communal value as the site is not publicly accessible.
- 5.36 A detailed assessment has been undertaken to assess the potential impact of the proposal, with particular regard given to the effect that the development will have on the visual impact on the setting of the Old Elm. The assessment concludes that *"the low adverse impact from the change in the road layout is mitigated by the improvements to the setting of the listed building through a wider buffer between the [Old Elm] and the realigned road, as well as the benefit of relocating the intrusive signage. This results in a neutral impact."* Given that the proposal is primarily for hardstanding, with very minimal single storey construction it is considered that the impact on the setting of The Old Elm is neutral. It is therefore considered that the proposal complies with Policy ENV2 of the Local Plan and relevant policy within Section 16 of the NPPF.
- 5.37 The Council's built heritage consultant accepted that the extensive landscaping proposed as part of the application would help to soften the impact of the development due to the increased level of screening that is located on the eastern edge of the site. However, the heritage officer felt that the setting of the listed building would be affected albeit to a *"low level of less than substantial harm"*. As such, an objection was made based on the inability of the mitigating planting and fencing to fully alleviate concerns regarding encroachment on the Grade II listed building. Nonetheless, as set out above, the case officer recommended the application for approval, concluding on heritage matters that *"It is considered that the proposal, with the mitigation proposed, would not impact the setting of the Listed building to such an extent to warrant refusal."*

## Archaeology

- 5.38 Policy ENV4 outlines that in situations where there are grounds to believe that sites, monuments or their settings would be affected, developments will be required to arrange for an archaeological field assessment to be carried out. Paragraph 189 of the NPPF indicates that a desk-based assessment should be provided if the site on which a development is proposed has the potential to include archaeological remains.
- 5.39 As such, an Archaeological Desk Based Assessment has been submitted with this application which considers the historic value of the site and the significance of the listed building. In accordance with the guidance within paragraph 5.7 of the Local Plan and paragraph 187 of the NPPF, the Essex Historic Environment Record (HER) has been consulted which confirms that no previous investigations have been undertaken within the boundary of the application site. As

such, data has been considered with the relevant geotechnical data that is available such as that on the British Geological Survey website to form an appraisal of the site.

- 5.40 The site does not contain any nationally or locally designated assets and the site does not lie within any Archaeological Priority Areas. Given that the site has not previously been developed there is a reasonable chance that there may well be some archaeological remains on site, mitigation is put forth that further archaeological monitoring be conducted once geotechnical investigation is conducted. On this basis it is considered that the proposal would not result in any adverse effects.
- 5.41 The Council's archaeology officer had no objection to the proposals subject to a series of relevant conditions being attached to the permission, including the requirement for a Written Scheme of Investigation. The applicant is happy for such a condition to be attached and to comply with this.

## Noise

- 5.42 Further to the information submitted for noise as part of the last planning application, a Noise Assessment Addendum is included with this application. This note sets out a summary of the original January 2021 Noise Report and provides an overview of further discussions and updates regarding noise.
- 5.43 Paragraph 5.22 of Policy ENV10 of the Local Plan specifically considers noise creation as it relates to new development, acknowledging that development that generates noise is typically associated with economic activity. However, whilst the form of economic development that is proposed on site (logistics) would typically be associated with an increase in noise pollution from an increased frequency in HGV movements, the proposed new layout has removed the section of development that previously was located closest to The Old Elm, reducing the noise impact that the proposed development would place on it.
- 5.44 It is therefore concluded that the proposal accords with Policy ENV10 as the proposal will generate a significant amount of economic activity which will, at all worst case noise levels tested, have low to no impact at any location. It is therefore considered that the proposal is compliant with paragraph 180 a) of the NPPF as the design of the scheme ensures that noise impacts do not result in any significant adverse impacts on quality of life.
- 5.45 The Council's Environmental Health Officer (EHO) previously agreed that the approach to assessing noise is consistent with that required under the Noise Policy Statement for England and the Planning guidance on noise. No objection was raised on noise grounds, only that certain conditions be imposed on any future approval.
- 5.46 The Noise Assessment Addendum concludes that with the proposed mitigation in place, the predicted levels would be marginally above UDC's target levels for 2-3 hours of the night but below these target levels at all other times. However, noise levels at all nearby noise sensitive premises (including the two new receptors) would be below the LOAEL at all times and so there would be no observed adverse effects.

## Landscape and Visual Impact

- 5.47 In consideration of the latest planning application, no objection was received from Natural England. The Council's landscape officer however noted that the proposals are located within the Countryside Protection Zone (CPZ) and that there should be strict control on development within this rural area. The landscape officer objected to the proposals on the basis that they felt the proposals would have a significant detrimental visual impact on the open rural character of the site.

5.48 The accompanying Landscape and Visual Impact Assessment (LVIA) sets out that the proposed open logistics facility would result in only low levels of landscape and visual effects and in particular considers that:

*“The limitations of any effect to the wider rural scene suggest that this development would not harm the declared purposes of the Countryside Protection Zone”.*

5.49 Policy ENV7 of the Local Plan requires appropriate mitigation measures should the development adversely affect landscape elements of importance. The site sits within close proximity to the Flitch Way Local Wildlife Site (LWS) and the Flitch Way runs along the southern boundary of the site. This viewpoint has been considered within the LVIA and it is considered that the development would not cause any notable harm to the visual outlook of people on the Flitch Way. Furthermore, an extensive landscape buffer is proposed, consisting of native species planting and woodland, as well as hornbeam trees considered appropriate to the area.

5.50 It is therefore considered that the proposal accords with Policy ENV7 of the Local Plan.

## Ecology

5.51 Policy GEN7 confirms that development should not have a harmful effect on wildlife unless the need for the development outweighs the importance of the feature to nature conservation. If protected species are present on site, studies will need to be undertaken and measures to mitigate the impact of development will be required.

5.52 The accompanying Ecological Assessment confirms that there are no statutory designated sites within or adjacent to the site, although the Flitch Way LWS is close to the site boundary. However, the LWS will not be affected by the development proposals given the proposed landscaping proposed along the southern boundary of the site and subject to standard mitigation measures such as ground clearing outside of hibernation periods, there are no ecological reasons why the proposal could not be advanced.

5.53 A separate Badger Survey report has also been prepared which confirms that no significant adverse effects are expected as a result of the development, either during construction or operations. A walkover study was conducted as recently as March 2023, which confirms that there are no badgers or water voles present on site.

5.54 In addition, a bird strike hazard management plan has been produced to provide assurance that there is no significant increase in risk of bird strike as a direct result of the development. The plan has considered the proposals in respect of relevant Civil Aviation Authority (CAA) guidelines and the UK Government DfT / ODPM Circular 1/2003. Consultation comments received from MAG in response to the previous application (21/0332/FUL) have also been considered and incorporated within the accompanying landscape strategy.

5.55 The plan considers that the effect of the construction phase on bird strike risk is negligible, with the planting mix proposed as part of the landscaping strategy has been designed not to attract problem species and tree heights that will not exceed 10m. Where risk is noted in respect of the roofs of the two portacabin buildings, roof areas will be safely accessible, with regular inspections to ensure that any grouping of birds are dispersed.

5.56 ECC’s ecology team raised no objection to the proposals subject to appropriate enhancement measures secured via condition, which the Applicant is willing to agree to.

## Flood Risk and sustainable drainage

- 5.57 Policy GEN3 requires the provision of a Flood Risk Assessment (FRA) for areas that may lead to an increase in flood risk which will need to include appropriate mitigation and an evaluation of its effectiveness.
- 5.58 A FRA is submitted alongside the application. The FRA confirms that a total of 2.09ha on site would be converted to impermeable surfaces, which are unsuitable for soakaways or permeable paving due to the poor infiltration rates of the soil. As such, a drainage strategy has been proposed which directs water to an underground attenuation device which would be directed into the existing watercourse in the south west corner of the site.
- 5.59 The majority of the site is Flood Zone 1 (the lowest chance of flooding) with only a very small area in the south west corner of the site which is considered to be Flood Zone 3. Drainage assessment results confirm that the site is suitable for commercial development, with no flood risk affecting workers and visitors arising from the development of the site. As such, the proposal meets the requirements of Policy GEN3.
- 5.60 The Local Lead Flood Authority (LLFA) were consulted on as part of the latest planning application and were satisfied that the development would not pose a flood risk either at the site itself or to the immediate surrounding area subject to suitable SuDS conditions.

## Air Quality

- 5.61 Policy ENV13 states that development that would involve users being exposed on an extended long-term basis to poor air quality outdoors near ground level will not be permitted. The accompanying Air Quality Assessment has assessed the potential for the generation of dust as a result of construction activities and the generation of exhaust pollutants from operational phase traffic.
- 5.62 Suitable mitigation measures have been included (which are detailed at length in Appendix C of the Air Quality Assessment) which include various monitoring and maintenance tasks to ensure that dust created from the construction of the scheme would not have any significant impact on air quality. Additionally, the report confirms that the overall significance of the vehicle emissions associated with the operational phase of the development is not significant.
- 5.63 Further, the impact of airborne ammonia on the nearby ecological site, the Flitch Way LNR, is deemed to be insignificant, with NOx and nitrogen deposition considered within the ecological assessment.
- 5.64 Environmental Health Officers were consulted as part of the previous application and raised no objection in terms of air quality. An Air Quality Addendum is submitted alongside this application which addresses relevant consultation responses received during the previous application. This document concludes that:
- 1 The residual effect of construction phase dust emissions will remain ‘not significant’;
  - 2 The change in pollutant concentrations at the Old Stables and Willow House as a result of the operation of the Proposed Development will be ‘negligible’ irrespective of the total concentrations; and
  - 3 The impact at the Hatfield Forest Nature Reserve and SSSI will be imperceptible, with no significant effects on ecological features predicted.
- 5.65 Overall, the conclusion of the Original AQA that the Proposed Development will not have a significant impact on local air quality remains unchanged.

## Lighting

- 5.66 A Lighting Strategy has been prepared which provides details for an exterior lighting design which is appropriate within the context of the site within the designated CPZ. The design has taken heed of the ILP guidance notes for obtrusive light in respect of the proposed mitigation, with backlight shields proposed on lighting columns to minimise light spill, and the use of luminaires which can be remotely controlled for part night dimming during dusk until dawn to ensure that the strategy aligns with the International Dark Skies Association. As such, we consider that the lighting strategy proposed accords with Policy GEN 5 of the Local Plan. Please refer to drawing 10398-EXT-01 for the full design of the lighting strategy.
- 5.67 KTA have calculated the vertical spill on the adjacent properties and can confirm that the only building affected is The Old Stables; the impact on which is very low (equivalent to a clear moonlight night). No other buildings have any spill as can be seen from the 0 lux results. Drawing 10398-EXT-03 includes the vertical plane light spill calculations.
- 5.68 When consulted as part of the previous application, the EHO was satisfied that the external lighting strategy set out in the accompanying lighting strategy is acceptable provided that it is designed and installed in accordance with the submitted details.

## Glint and Glare

- 5.69 Following discussions with Manchester Airport Group (MAG) in their role as operator of Stansted Airport, a Glint and Glare Assessment has been produced which considers the impact of the proposed development on aviation glint and glare. The report demonstrates that there would be a low impact arising from parked vehicle windscreens and low potential for after-image on the ATC tower at Stansted Airport. As such, there would be no adverse impact on aviation safety as a result of the proposed development.
- 5.70 No objection was received from MAG during the determination of the previous application and the scheme was therefore considered acceptable in this regard.

## 6.0 Reasons for Refusal

6.1 The decision notice in respect of planning application 22/0267/FUL set out four reasons for refusal. One of these relates to the failure to provide the necessary mechanism to secure financial contributions which would have been achieved through a S106 should the application have been approved as recommended by the case officer. The three remaining reasons for refusal relate to the scheme's compliance with Local Plan policy.

6.2 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise, and the NPPF replicates this in policy. Para 11 d) of the Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:

- i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

In Peel Investments v Secretary of State for Housing, Communities & Local Government [2020] EWCA Civ 1175, the Court of Appeal confirmed that policies are out-of-date for purposes other than those that relate to Footnote 7 of Para 11d of the NPPF if they have been:

*"...overtaken by things that have happened since the plan was adopted, either on the ground or through a change in national policy, or for some other reason, so that they are now out-of-date".*

6.3 The Uttlesford Local Plan was adopted in 2005 and is therefore over 15 years old. The Plan sought to address needs that extended only to 2011 pursuant to the now revoked RSS for the East of England. Since the introduction of the Uttlesford Plan, the NPPF was introduced in 2012 and has undergone multiple revisions, in addition to the publication of a National Design Guide. The length of time that has passed, and the clear progression that has taken place in both national policy and guidance clearly shows that the relevant policies contained within the Uttlesford Local Plan are out of date. The Council has failed to bring forward a new local plan in the period since 2012, with draft Local Plans twice failing at examination. There is no immediate prospect of a new local plan coming forward that would provide for employment needs within the horizon of the appellant's business requirements.

6.4 In the recent appeal decision of the 4<sup>th</sup> September 2020 in Uttlesford District at Land south of Rush Lane, ref APP/C1570/W/19/324550, the Inspector concluded at para 16 that:

*"Based on the foregoing, there can be little doubt that the LP is now painfully out of date in terms of its purpose, its strategy, its content and its housing delivery policies. It does not meet the requirement for the Council to have an up-to-date plan and it is clearly not a strong foundation upon which to refuse planning permission."*

6.5 Nonetheless we set out below an assessment of the proposals against the Council's policies referred to in the reasons for refusal.

### Reason for Refusal 1: Countryside Protection Zone

6.6 Reason for Refusal 1 relates to the site's location within the Countryside Protection Zone:



*The site lies outside development limits within an area designated as a Countryside Protection Zone (CPZ) within the Uttlesford Local Plan (adopted 2005). Policy S8 of the adopted local plan states that planning permission will only be granted for development within the CPZ that is required to be there or is appropriate to a rural area, adding that there will be strict control on new development. In particular, the policy states that development will not be permitted if either a) new buildings or uses would promote coalescence between the airport and existing development in the surrounding countryside, or b) it would adversely affect the open characteristics of the zone.*

*The site constitutes an integral part of the Countryside Protection Zone (CPZ) falling within CPZ Parcel 1 (Tilekiln Green) for the purposes of evaluation for the ‘Uttlesford Countryside Protection Zone Study’ (LUC, 2016) whereby the landscape value of the site is considered intrinsic to the maintenance of the function and integrity of the Countryside Protection Zone.*

*The proposed development by reason of its nature and magnitude would have a significant adverse impact on the existing open character and appearance of the site by filling an open gap.*

*The proposed development would therefore be contrary to Policies S8 and S7 of the Uttlesford Local Plan (adopted 2005).*

### **Policy S8 – The Countryside Protection Zone**

6.7 We set out above (para 5.2 onwards) our view that the scheme is compliant with policy S8 of the Local Plan which permits development in the CPZ where this is ‘required to be there’, and that notwithstanding this position, our view is that the policy is out of date for the reasons set out above. This has been reinforced in recent appeal decisions, such as an appeal at The Street, Takeley (ref. APP/C1570/W/19/3243727) where the Inspector attributed only very limited weight to conflict with policies S7 and S8 on the basis that the NPPF’s ‘recognition’ of the countryside is not consistent with the ‘protection’ set out in these policies. A second Inspector at Warish Hall Farm (ref APP/C1570/W/22/3291524) later agreed with this assessment, confirming that the policy is not fully consistent with the NPPF.

6.8 We also note that development in the CPZ has been considered acceptable previously. For example, a 2019 appeal decision at Land West/Land East of Parsonage Farm, Takeley, granted permission for 119 dwellings and a care home in the CPZ (ref. APP/C1570/W/19/3234530 and APP/C1570/W/19/323532). The Inspector carefully considered the impact of the proposal on the CPZ (paragraph 28) prior to concluding that the scheme was acceptable:

*Overall, having regard to all considerations, I conclude that both appeal A and appeal B would individually result in some limited harm to the countryside around the airport, as defined by the Countryside Protection Zone (CPZ) and identified in policy S8 of the Local Plan, in relation to its open characteristics and coalescence between Stansted Airport and existing development. In this respect both appeals would fail to accord with Local Plan policy S8. Further, for all the reasons set out above, I conclude that the cumulative impact of both appeals would still be limited.’*

6.9 In summary, the CPZ is a local designation in an out-of-date Local Plan which has not been reviewed since the introduction of the NPPF; the site is not subject to any national designations that would support restricting development. The CPZ applies a restriction that is not consistent with the NPPF (as found by the Inspectors at APP/C1570/W/19/3243727 and APP/C1570/W/22/3291524) and it was formulated taking into account development needs that are not up to date. It is our view that the policy should be afforded limited weight.

- 6.10 Nonetheless, the proposals can be considered compliant with Policy S8 in that there are no suitable allocated sites or alternative locations for open logistics use in the district. Enclosed with this application is a note prepared by Coke Gearing Chartered Surveyors (January 2023) which confirms that, having assessed 33 potential suitable alternative sites as requested by the Council, each of these is unsuitable. The note sets out that:

*‘Coke Gearing Consulting have been aware of Wren Kitchens’ requirement for the last three years and have actively sought to seek a suitable site during this period, which we have been unable to do, entirely due to the lack of available employment space in the Uttlesford and East Herts regions.*

*We have experienced a shortage of commercial employment land across these regions for the last seven years and it is a significant problem for relocating or expanding businesses in our District.’*

- 6.11 The particular locational advantages of this site for this use are explored in full detail in the accompanying Economic Report prepared by Lichfields, but it is evident that this particular location, proximate to Junction 8 of the M11, under a one-hour drive from London, and within a short distance of Stansted Airport provides an excellent location for a logistics facility. The proposals include significant landscaping, as a result of which the proposals would result in only low levels of landscape and visual effects as set out in the LVIA. Therefore, in our view while the policy is out-of-date, the proposals are compliant with Policy S8 and recent decisions have demonstrated that the principle of some development within the CPZ can be considered acceptable depending on the specific case.

### **Policy S7 – The Countryside**

- 6.12 The reason for refusal also refers to Policy S7 of the Local Plan. This is a policy which seeks to protect the countryside ‘for its own sake’ and permits development in the countryside only ‘*for development that needs to take place there, or is appropriate to a rural area*’. Consistent with the position on Policy S8, we have demonstrated in this statement and through the supporting documents that there is a need for the development to be located at this particular site.

- 6.13 The relevance of Policy S7 has been considered by Planning Inspectors at a number of appeals. Recently it was considered by the Inspector at the land to the west of Buttleys Lane, Great Dunmow appeal (ref. 3270615). The Inspector concluded that (emphasis added):

*The matter of the weight that can be attached to Policy S7 in the light of subsequent revisions to the Framework has been considered in several recent appeals within the district (most clearly in the Inspector’s decision in APP/C1570/W/19/3243744). The consensus arising out of the appeal decisions and with which I concur, is that of the three elements to the Policy, the first two - protecting the countryside for its own sake and restricting development only to that needed or appropriate to the countryside - were no longer consistent with the Framework and therefore carried very limited weight. The only element carrying weight and remaining consistent with the Framework at paragraph 174, where it requires decisions to recognise the intrinsic character and beauty of the countryside, is the last clause requiring the appearance of development to protect or enhance the particular character of the part of the countryside within which it is set.*

- 6.14 This establishes that Policy S7 is largely out of date. Nonetheless, the element of the policy which requires development to protect or enhance the particular character of the part of the countryside within which it is set, remains relevant. The existing site as described in the LVIA is a vacant wasteland area located alongside Junction 8 of the M11, with low landscape character value. The LVIA confirms that ‘*it is not an area which exhibits any particular accumulation of*

*characteristics such would engender a heightened sense of specialness or value.’* The LVIA concludes that the proposed development would give rise to only low levels of landscape and visual effects. Mitigation is included within the scheme in the form of extensive landscape buffer consisting of native species planting and woodland.

- 6.15 To conclude regarding Reason for Refusal 1, Policies S7 and S8 are out-of-date, having been established in a Local Plan which is over 18 years old and not informed by up-to-date national policy and guidance. Paragraph 11 of the NPPF is engaged, and therefore, as a matter of principle, sustainable development should be approved unless there is a clear reason for refusal or any adverse impacts would significantly and demonstrably outweigh the benefits of the proposal.
- 6.16 The site is located in a key strategic location with a number of advantages for the proposed use. In the absence of a spatial strategy or up-to-date Local Plan, there are no suitable alternative allocated sites for this form of open logistics, and the supporting documents enclosed alongside this application confirm that there is a severe shortage of industrial land within the district. In our view the principle of development at this site is acceptable, and this view was shared by officers who recommended the previous application for approval and concluded that the adverse impacts of the proposals would not significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

## Reason for Refusal 2: Heritage

- 6.17 Reason for Refusal 2 is set out below:

*The proposed development would cause less than substantial harm to the setting and significance of the listed building, The Old Elm, by encroaching upon the last remaining section of its original setting, paragraph 202 of the NPPF being relevant. The harm is considered on the low end of the scale. The proposals would fail to preserve the special interest of the listed buildings, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, because of excessive development within their setting. These proposals are therefore considered contrary to Policy ENV2 of the adopted Uttlesford Local Plan 2005 and the NPPF.*

- 6.18 As set out above, whilst the site does not fall within a Conservation Area, directly east of the site is a Grade II listed building ‘The Old Elm’. Policy ENV2 (Development affecting Listed Buildings) of the Local Plan confirms that development proposals that adversely affect the setting or special characteristics of a listed building will not be permitted. Further, paragraphs 194 and 195 of the NPPF require that appropriate justification and mitigation be advanced should it be considered that there would be any harm or loss of significant to a heritage asset.
- 6.19 The enclosed Heritage Impact Assessment demonstrates that the significance of the development site is of a low historic and aesthetic significance, with a neutral communal value as the site is not publicly accessible. Given that the proposal is primarily for hardstanding, with very minimal single storey construction it is considered that the impact on the setting of The Old Elm is neutral. It is therefore considered that the proposal complies with Policy ENV2 of the Local Plan and relevant policy within Section 16 of the NPPF. In our view the proposal is in accordance with S66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1991 as it forms an appropriate development which does not have an adverse impact on the listed building or its setting.
- 6.20 During the course of the previous application, the Council’s built heritage consultant accepted that the extensive landscaping proposed as part of the application would help to soften the impact of the development due to the increased level of screening that is located on the eastern

edge of the site. However, the heritage officer felt that the setting of the listed building would be affected albeit to a “*low level of less than substantial harm*”. This was considered by the planning officer as part of the planning balance, who concluded that: ‘*It is considered that the proposal, with the mitigation proposed, would not impact the setting of the Listed building to such an extent to warrant refusal.*’ (Officer’s report para 14.6.9).

6.21 There are a number of benefits associated with the proposal including:

- 1 Enabling a local business to remain within the District, and re-locate to an optimal location with good quality links to the motorway network and proximity to the market it serves;
- 2 During the construction period, the provision of 116 gross direct FTE construction jobs; and 129 gross indirect/induced FTE jobs;
- 3 During the construction period, £11.4m direct GVA and £13.6 million indirect GVA generated in Uttlesford and regionally;
- 4 Once the facility is operational, a total of 196 jobs will be sustained including 130 jobs safeguarded from the existing facility and 66 extra jobs from the expansion of operations; and
- 5 Economic output of £12.4m per annum in Uttlesford and £13.8m per annum across the East of England, with £3.1m per annum generated for National Insurance and PAYE tax purposes.

6.22 As set out above, the Local Plan is significantly out of date. Paragraph 11 of the NPPF is engaged, and therefore, as a matter of principle, sustainable development should be approved unless there is a clear reason for refusal or any adverse impacts would significantly and demonstrably outweigh the benefits of the proposal. While our view is that there is no adverse impact in heritage terms, the low level of less than substantial harm identified by the Council does not significantly or demonstrably outweigh the benefits of the proposal and as such does not justify refusal of the scheme.

### **Reason for Refusal 3: Residential Amenity**

6.23 Reason for Refusal 3 states that:

6.24 *The development would result in unacceptable material disturbance to occupiers of surrounding properties to the detriment of their residential amenity contrary to Uttlesford Local Plan Policy GEN4 and the NPPF.*

6.25 This reason for refusal is vague and does not specify which aspect of residential amenity is considered to be harmed by the proposal. Policy GEN4 (Good Neighbourliness) states that:

*Development and uses, whether they involve the installation of plant or machinery or not, will not be permitted where:*

*a) noise or vibrations generated, or*

*b) smell, dust, light, fumes, electro magnetic radiation, exposure to other pollutants;*

*would cause material disturbance or nuisance to occupiers of surrounding properties.*

6.26 In relation to noise, dust, and light, which of the above are considered to be relevant to this scheme, the proposals were found to be acceptable by the Council during the course of the application. This is summarised in paras 14.5.1 to 14.5.15 of the Officer’s Report. The site is subject to existing high levels of transportation noise, and the predicted noise levels would be below the background level at all times of day and night. No objection was received in relation to noise from the Council’s officer, subject to conditions being imposed on the permission.

- 6.27 In relation to air quality, Environmental Health officers had no objection. With dust mitigation measures and operational mitigation, the development was not considered by officers to have a significant impact on local air quality. The external lighting strategy was similarly considered acceptable, with column mounted external lighting lanterns proposed to include back shields and hoods to minimise light spillage.
- 6.28 Therefore, it is considered that the scheme is entirely acceptable with relation to Policy GEN4 and this reason for refusal is not justified.

## 7.0 Reason for Refusal 4: Planning Obligations

7.1 Reason for Refusal 4 stated that:

*“The development fails to provide the necessary mechanism to secure the required provisions of appropriate infrastructure to mitigate the development by way of lack of travel plan and associated monitoring fee £6,132, lack of financial contribution of £40,500 for the upgrade of the Fritch Way, and monitoring fee of £426, contrary to Policy GEN6 of the Adopted Local Plan 2005 and the NPPF”*

7.2 Whilst a Section 106 agreement had not been entered into to provide for the above at the time of the decision due to timescales, the applicant had informed the Council that it was willing to enter into such agreement.

7.3 The ‘Heads of Terms’ as set out in the reason for refusal are agreed by the applicant who remains willing to provide such obligations and contributions and has prepared a draft Section 106 agreement a copy of which is submitted together with this application. A copy has also been sent to the Council’s solicitor. The applicant will continue to work proactively with the Council in order to submit a completed agreement.

### Summary

7.4 The site is not constrained by nationally significant protection policies and its development would be consistent with policies in the NPPF, including paragraphs 80-82 which require planning decisions to address the specific locational requirements of distribution operations at a variety of scales and in suitably accessible locations. The Local Plan is out of date and sustainable development should be approved unless there is a clear reason for refusal or any adverse impacts would significantly and demonstrably outweigh the benefits of the proposal.

7.5 This section has demonstrated that the reasons for refusal for the previous application (imposed by elected Members against the professional advice of the Council’s officers) do not represent a clear reason for refusal, and that any adverse impacts do not significantly and demonstrably outweigh the benefits of the proposal. As such permission should be granted.

## 8.0 Conclusions

- 8.1 This Planning Statement accompanies the S62A planning application for a new open logistics facility on land at Tilekiln Green. It summarises the rationale and has considered the key principles of the development against policies set out within national policy and the statutory development plan. It is to be noted that this scheme was recommended for approval by Council officers.
- 8.2 As demonstrated within this statement and accompanying technical documents and drawings, whilst the site is located within the CPZ, it is a development that is 'required to be' in this location as per Policy S8 – a policy that is out of date in any event. The proposal would deliver a policy-compliant scheme which would deliver significant benefits, most notably the delivery of 113 jobs, with a future potential expansion of a further c.85 jobs and assist in safeguarding existing jobs at the Barton Upon Humber factory.
- 8.3 The site is one which is uniquely suited to facilitating a logistic operation with both specific site advantages, (excellent access to the strategic road network and sufficient size to facilitate an HGV logistic operation) and locational advantages, with London being under a one-hour drive from the site.
- 8.4 This Planning Statement demonstrates that the proposed development accords with all relevant local and national planning policy, delivers significant benefits and represents sustainable development in social, environmental and economic terms and therefore planning permission should be granted without delay.
- 8.5 Having had special regard to the statutory tests under Section 66(1) and 72 of the Planning (Listed Building and Conservation Areas) Act 1990, the proposed development is not harmful to heritage assets and is considered to be acceptable in heritage terms and therefore this is not a reason to warrant refusal of the application.
- 8.6 It is also clear that the Local Plan is significantly out of date. Paragraph 11(d) of the NPPF is engaged, and therefore, as a matter of principle, sustainable development should be approved unless there is a clear reason for refusal or any adverse impacts would significantly and demonstrably outweigh the benefits of the proposal. We identify no such adverse impacts, including heritage. While our view is that there is no adverse impact in heritage terms, the low level of less than substantial harm identified by the Council does not significantly or demonstrably outweigh the benefits of the proposal and as such does not justify refusal of the scheme. The proposed development does not conflict with the NPPF, nor do any adverse impacts outweigh the benefits of the development when assessed against the NPPF as a whole. Accordingly planning permission should be granted for the development.

# **Appendix 1 Committee Report for Application ref. 22/0267/FUL**



# **Appendix 2 Decision Notice for Application ref. 22/0267/FUL**