

**The Town and Country Planning (Section 62A  
Applications) (Hearings) Rules 2013**

**ISSUES REPORT**

**Application Reference No:** S62A/2023/0016

**Applicant:** Weston Homes PLC

**Description of proposal:** Erection of 40 no. dwellings, including open space landscaping and associated infrastructure

**Site address:** Warish Hall Farm, Smiths Green Lane, Takeley, Essex CM22 6NZ

**Report Prepared by:** Susan Hunt

**Hearing to be held on:** Tuesday 25 July 2023

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**Introduction/Background**

*The Site*

1. The application site is approximately 2.1 hectares in area. It comprises an undeveloped field to the north of the settlement of Takeley, between Smiths Green and Jacks Lane. It bounded by vegetation to all sides aside from a small gap to the western boundary broadly where the vehicular access is proposed.
2. A public right of way, Takeley 25, (a restricted byway) runs along the northern/eastern boundary of the site linking to Jacks Lane and the byway continues eastwards to Burgattes Road and beyond. The verges to Smiths Green Lane are designated as Village Green.
3. A row of predominately mid to late 20<sup>th</sup> century dwellings lie to the south of the site along the south side of Jacks Lane, with more sporadically developed and historic dwellings set within generous plots located towards the junction and on the east side of Smiths Green.
4. There has been extensive modern development associated with the Priors Green urban extension nearby, including a nearby primary school and local centre. There are further shops and services in Takeley which are primarily located along the B1256 Dunmow Road.

### *Planning Policy and Designations*

5. The statutory development plan for the area in which the site is located is the Uttlesford Local Plan, adopted in 2005 (the Local Plan). National policy and guidance is contained in the National Planning Policy Framework (the Framework) and associated national Planning Practice Guidance (PPG).
6. The site lies outside of the settlement boundary of Takeley, which broadly follows Jacks Lane in this area before extending further north east where a large housing development and associated infrastructure and services have been constructed as part of Priors Green.
7. Takeley is identified in the Local Plan as a 'key rural settlement' by policy S3. The site falls within the Countryside Protection Zone referred to in Local Plan policy S8. It does not lie within a Conservation Area, but there are emerging proposals to designate Smiths Green as such. The site does not lie within any landscape or greenbelt designations.

### *The Proposal*

8. Full planning permission is sought for the erection of 40 dwellings, including 16 affordable homes, together with open space, landscaping, parking and associated infrastructure. A vehicular access is proposed to Smiths Green Lane and pedestrian access to the existing public right of way which links to Jacks Lane. A mix of two, three, four and five bedroom homes are proposed, including bungalows, terraces, semi-detached and detached house types.

### **Procedural matters**

9. The application was made under section 62A of the Town and Country Planning Act 1990, which allows for applications to be made directly to the Planning Inspectorate where a Council has been designated by the Secretary of State.
10. As the proposal is a major application raising multiple issues and has generated a high level of local interest, the decision was taken that it would be appropriate to hold a hearing. This is to be held on Tuesday 25 July 2023 at Uttlesford District Council on London Road in Saffron Walden, in the Council Chamber.
11. A screening direction was issued by the Planning Inspectorate on 27 April 2023, which concluded that the proposed development would not be of a scale and nature likely to result in significant environmental impact and is therefore is not Environmental Impact Assessment development.
12. The application was made on 4 April 2023 and validated on 24 April. Notifications were made on 27 April and allowed for initial responses by 9 June. Responses were received from:
  - Affinity Water Limited
  - Cadent Gas Plant Protection Team
  - Essex County Council (ECC):
    - Highways and Transportation

- Infrastructure Planning
- Lead Local Flood Authority
- Minerals and Waste Planning
- Place Services – Ecology
- Place Services - Historic Environment
- Essex Police
- Essex Quality Review
- Gigaclear Diversionary Works Team
- Historic England
- National Highways
- Natural England
- NHS Hertfordshire and West Essex Integrated Care Board
- Stansted Airport MAG Aerodrome Safeguarding
- Takeley Parish Council
- Thames Water
- UK Power Networks (Operations) Limited
- Uttlesford District Council:
  - Environmental Health
  - Housing Strategy, Enabling and Developing Officer
  - Planning Committee
  - Urban Design

13. In addition, a number of local residents also submitted responses to the consultation.
14. The applicant submitted further information on 2 June and 11 July in response to comments received following the consultation. This included further information relating to the affordable housing mix, Building Regulation M4(2) compliant units, noise, byway improvements, biodiversity and trees. Comments on suggested conditions and a draft s106 Unilateral Undertaking were also submitted on 11 July. The relevant parties have been given the opportunity for further comment prior to the hearing, by 24 July.
15. Uttlesford District Council have submitted an Officer's report which was considered by the Planning Committee on 7 June. The minutes of that meeting advise that Members wished the following concerns to be brought to the attention of the Planning Inspectorate: *'Objecting to the application and raising concerns about the impact on the CPZ, the suburban form of development contrary to GEN 2, highlighting the need to give appropriate weight to the emerging proposed conservation area, the site access onto a protected lane, the character being changed together with there being no clear and convincing benefits to the community'*.
16. Uttlesford District Council's summary response includes more detailed comments relating to development limits, impact on the character and appearance of the area, the countryside protection zone, effects on heritage assets and insufficient information relating to noise. Suggested conditions and s106 heads of terms were also included in the response.
17. The Council has confirmed that the applicant has submitted a separate planning application to the Council, UTT/22/3126/FUL, which is pending consideration.

18. The responses to the consultation including issues raised by interested parties, the officer report and the Council's response have informed the main issues which are set out below.

### **Main Issues**

19. The following are the main issues to be considered in respect of the application:

- whether the location of the development accords with the development strategy in the development plan, including its location in the countryside protection zone;
- whether the proposed development is accessible and would be acceptable in terms of highway safety;
- the effects of the proposed development on the character and appearance of the area;
- the effects of the development on the significance of designated and non-designated heritage assets; and
- effects of noise on future occupiers.

### *Location*

20. The site is situated in the countryside where policy S7 of the Local Plan is restrictive of new development. It also lies within the countryside protection zone as defined by Local Plan policy S8, which controls development around Stansted Airport. Development is restricted by the policy if it would promote coalescence between the airport and existing development, or would adversely affect the open characteristics of the area.

21. Takeley is identified in the Local Plan as a 'key rural settlement' by policy S3. It has a range of facilities and services commensurate to its status in the settlement hierarchy.

22. The officer report indicates that the new built form would be constructed towards the northern edge of the settlement and would therefore provide a logical relationship with the existing settlement, and that the siting would not be unreasonable in respect to its location taking into account its proximity to local services and facilities and its accessible location.

23. The Council's response states that the introduction of built form would be in conflict with policy S8 in relation to the countryside protection zone, which seeks for development to avoid adverse effects on the open characteristics of the zone.

24. A number of interested parties have questioned the need for the additional housing given the amount of recent housebuilding and properties for sale in the area. Many are concerned that Takeley has grown too big and has insufficient infrastructure and local services to support the development, including health facilities and schools.

25. The dismissal of previous proposals on the site and the adjacent land at appeal has been referred to by all parties (ref. APP/C1570/W/22/3291524), as have other proposals in the Takeley area and related cumulative effects. Concerns have also been raised regarding a piecemeal approach to development in the area.

#### *Highway Safety and Accessibility*

26. The sole vehicular access is proposed onto Smiths Green Lane, which as previously stated is classed as a village green. Takeley Parish Council have provided a copy of the Register of Town or Village Greens initially dated 20 May 1968 and as updated, together with a copy of a Compulsory Purchase Order dated 29 January 1997 relating to the A120 works. There are no footways or lighting along the lane and none are proposed.

27. Pedestrian access is proposed onto the adjacent public right of way which links to Jacks Lane byway towards Burgattes Road and the local centre at Priors Green. The footway links are not within the application site but are proposed to be secured in the submitted Unilateral Undertaking as highway works.

28. The Highway Authority have not raised objections subject to a range of conditions relating to a construction management plan, full details of the access and visibility splays, details of improvements to footpath links, provision of parking and turning areas, cycle parking and provision of travel packs to future residents. A sustainable transport contribution is sought to fund improvements to bus services or infrastructure and/or the implementation of a cycle route between Takeley and Stansted Airport, and this is proposed to be secured in the submitted Unilateral Undertaking.

29. An objection was submitted by the Highway Authority to the planning application UTT/22/3126/FUL dated 11 February 2023 has been submitted by an interested party and referred to by others. However this pre-dates their response to the s62A application (2 June 2023) which was informed by additional information. Further information was submitted by the applicant on 11 July regarding details of proposed improvements to the byway.

30. Interested parties have also raised issues relating to the accessibility of the site and the sustainability of the locality including availability of public transport, as well as the condition of the lane.

31. Effects of construction and operational traffic on Smiths Green Lane and the wider road network have also been raised by interested parties. National Highways have not raised any objections in relation to effects on the A120.

#### *Character and Appearance*

32. The Council have raised concerns that the dwellings would be apparent from the protected land and the built development would be noticeable at night, diminishing the quality of the experience of the area. Their response also indicates that the urban form of development would not be sympathetic to the local character and landscape setting, adversely affecting the intrinsic character of the countryside in conflict with Local Plan policy S7. The officer

report does not raise concerns in relation to the effect on the landscape and visual impact of the wider landscape character area.

33. In term of design, the officer report indicates that the layout broadly reflects the advice of their design officer, in accordance with policies GEN2 and GEN4 of the Local Plan. It also indicates that landscaping and provision of public open space would be consistent with policies ENV3 and LC4 of the Local Plan.
34. Interested parties have raised concerns about the design and layout, and its appearance from both Smiths Green Lane and Jacks Lane.

#### *Heritage Assets*

35. There are a number of designated heritage assets nearby including Grade II listed buildings at Hollow Elm Cottage to the east side of Smiths Green Lane (List entry ref. 1112220) and Cheerups Cottage on the north side of Jacks Lane (ref. 1112207). The Scheduled Monument Warish Hall moated site and remains of Takeley Priory (ref. 1007834) and the Grade I listed Warish Hall and Moat Bridge (ref. 1169063) are situated further north to the west side of Smiths Green Lane. Smiths Green Lane is identified by the Council as a 'protected lane', a non-designated heritage asset.
36. The officer report recognises that the site lies within the setting of Hollow Elm Cottage and the surrounding landscape makes a positive contribution to its setting. The ECC historic environment team take the view that less than substantial harm would arise to the significance of this heritage asset in terms of noise and urbanisation of the location. They consider that the proposal would not result in harm to the significance of Cheerups Cottage, particularly in comparison to the previously refused proposals for the larger site.
37. The Council's response following Planning Committee indicates that of particular concern is the protected lane and the experience of the users of the lane and its historic significance in its open, pastoral setting.
38. Historic England's response notes the importance of Smith's Green as a historic lane and its contribution to the setting of numerous heritage assets. Historic England welcome the reduction to the extent of the development to the northern edge of the site which has diminished the overall impact on the rural character and the setting of heritage assets. Concerns remain regarding suburban encroachment on the historic lane, including impacts of light spill. The increase in traffic also has the potential to adversely impact on the experience and appreciation of the scheduled monument, resulting in harm to its setting and that the settings of the listed buildings which front Smiths Green. Notwithstanding this, they consider there is some scope for new development on the site.
39. The site lies within an area of known archaeological interest, with the submitted desk-based assessment highlighting moderate potential for encountering archaeological remains of Bronze Age, Iron Age, Roman, and Saxon date and a high potential for Medieval features. Trial trenching is proposed to identify the extent and depth of archaeological deposits and ECC Place Services recommend a condition in this respect.

40. As required by paragraph 202 of the Framework, the public benefits of the proposal will be weighed against any harm to significance of heritage assets.

41. A draft Conservation Area Appraisal for Smiths Green has been produced (May 2023). The site does not lie within the boundary of the proposed conservation area and a timescale for its adoption is unknown.

#### *Noise*

42. The Environmental Health Officer's response noted that whilst the applicant's noise assessment is acceptable in terms of road traffic noise and aircraft noise, it does not consider impacts from the Essex and Herts Shooting School which has the potential to result in unacceptable levels of noise and disturbance to future residential occupiers.

43. Further to this response, additional information has been submitted by the applicant which indicates the location of the shooting school to the north side of the A120 and that due to the significant separation distance the noise impact would be minimal. Environmental Health have been re-consulted on this additional information.

#### **Other Matters**

44. Other matters raised in the submission and in consultation responses are set out below.

#### *Housing Land Supply*

45. The Council cannot currently demonstrate a five year housing land supply and the presumption in favour of sustainable development as set out in paragraph 11 d) of the Framework is applicable to the proposed development. There is no indication that footnote 7 is applicable in terms of policies within the Framework that protect areas or assets of particular importance.

46. Interested parties consider there is adequate housing locally and that the shortfall in housing land supply is marginal.

#### *Land Use*

47. Local Plan policy ENV5 relates to protection of agricultural land. The land within the site is classed as Grade 2.

48. Interested parties have highlighted the loss of arable land and consider that new housing development should be directed to previously developed land.

#### *Biodiversity and Trees*

49. Local Plan policy GEN7 relates to effects on biodiversity. A range of ecological documents have been submitted in support of the application including an update to surveys previously carried out. Additional information submitted in July 2023 deals with effects arising from proposed improvements to the byway.

50. Interested parties have raised concerns about effects on numerous species including deer and birds. Effects from loss of boundary trees and hedges (Local Plan policy ENV3), as well as light and noise effects on biodiversity have also been raised. An Aboricultural Impact Assessment has been submitted with the application.

#### *Flood Risk and Drainage*

51. Local Plan policy GEN3 relates to flood risk. A Flood Risk Assessment and Sustainable Drainage Systems report have been submitted which confirm the site lies within Flood Zone 1 (low risk of flooding) and sets out that infiltration would be a suitable means of draining the development site. The drainage strategy for the site is set out in section 5 of the document. It is proposed to connect the development to mains sewage at Parsonage Road via a pumped connection and gravity sewer. Thames Water do not indicate that there would be capacity issues.

#### *Benefits*

52. Benefits arising from the proposals will be considered in the planning balance. The applicant lists these economic, social and environmental benefits in section 5.10 of their Planning Statement. These are economic, social and environmental.

#### **Conditions**

53. The Council and a number of consultees have suggested, on a without prejudice basis, a number of conditions in the event that the application is to be permitted. The applicant provided comments on these conditions on 11 July, and this will form the basis for discussion at the hearing. Inclusion of a condition does not necessarily indicate that it should be retained if the application were to be approved, either as worded or as amended.

54. Any discussion on their merits will be on a without prejudice basis, and they will be assessed as to whether they meet the tests for conditions as set out in paragraph 56 of the Framework.

#### **Planning Obligations**

55. A draft s106 Unilateral Undertaking has been submitted by the applicant, which seeks to secure the following:

- Affordable Housing (16 on-site units), including First Homes and shared ownership
- Sustainable Transport Contribution, including sum towards new and expanded bus services and cycling infrastructure
- Highways Improvements to Byway 48/25 Jacks Lane
- Education Contribution (secondary education only and including transport)
- Public Library Contribution



56. The Uttlesford District Council officer report also refers to wider education contributions to include early years and primary, and provision and long term maintenance of the public open space and play area.
57. As with conditions, the discussion on the planning obligations will be on a without prejudice basis and with regard to paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010.
58. For the Unilateral Undertaking to be a material consideration in the determination of the application it would need to be completed, engrossed and sent to the Planning Inspectorate prior to the issuing of the decision. The timeframe for this will be discussed at the meeting.

### **Site Visit**

59. The Inspector has already carried out an unaccompanied visit to the application site and its surroundings, on 20 June 2023. The Inspector will consider whether a further visit to the site will be necessary following the hearing, and whether such a visit will be accompanied or unaccompanied.

*Susan Hunt*

INSPECTOR