

# Land known as Bull Field, Warish Hall Farm Planning Statement

Planning Statement prepared in support of the Full Planning Application at the Land known as Bull Field, Warish Hall Farm, Takeley, Essex.

Weston  
Homes



## Contents

Document History.....	2
1. Introduction.....	3
2. Site Context & Overview .....	7
3. Application Proposals .....	11
4. Planning Policy .....	15
5. Planning Considerations .....	24
6. Summary and Conclusions.....	52

## Document History

Date	Version	Author	Revision/ Notes
12.06.23	Draft	J.Spencer	
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## Appendices

Appendix A – Application Drawing Schedule

Appendix B – Warish Hall Farm Appeal Decision – Ref. No. APP/C1570/W/22/3291524.

Appendix C – Draft Heads of Terms

Appendix D – Summary of responses to Inspector’s Decision

Appendix E – 5 Year Housing Land Supply Assessment by Lichfields

Appendix F – Helena Romanes School Appeal Decision -  
Ref. No. APP/C1570/W/22/3296064

Appendix G – Freedom of Information Request – Ref. 23-249

Appendix H – Letter from DLUHG to UDC (Dated: 27<sup>h</sup> July 2022)

Appendix I – Letter from ECC Infrastructure to Weston Homes (Dated: 12<sup>h</sup> April 2023)

Appendix J: Summary of proposed public benefits

Appendix K: Countryside Protection Zone Map

Appendix L: Countryside Protection Zone Map with recent Planning Approvals

Appendix M: ECC Place Services Historic Buildings and Conservation Pre-application advice Feedback.

## 1. Introduction

- 1.1. This Planning Statement has been prepared by Weston Homes Plc (The Applicant) in support of a full planning application relating to the Land known as Bull Field, Warish Hall Farm, Takeley (The Site). See location in Figure 1 below.

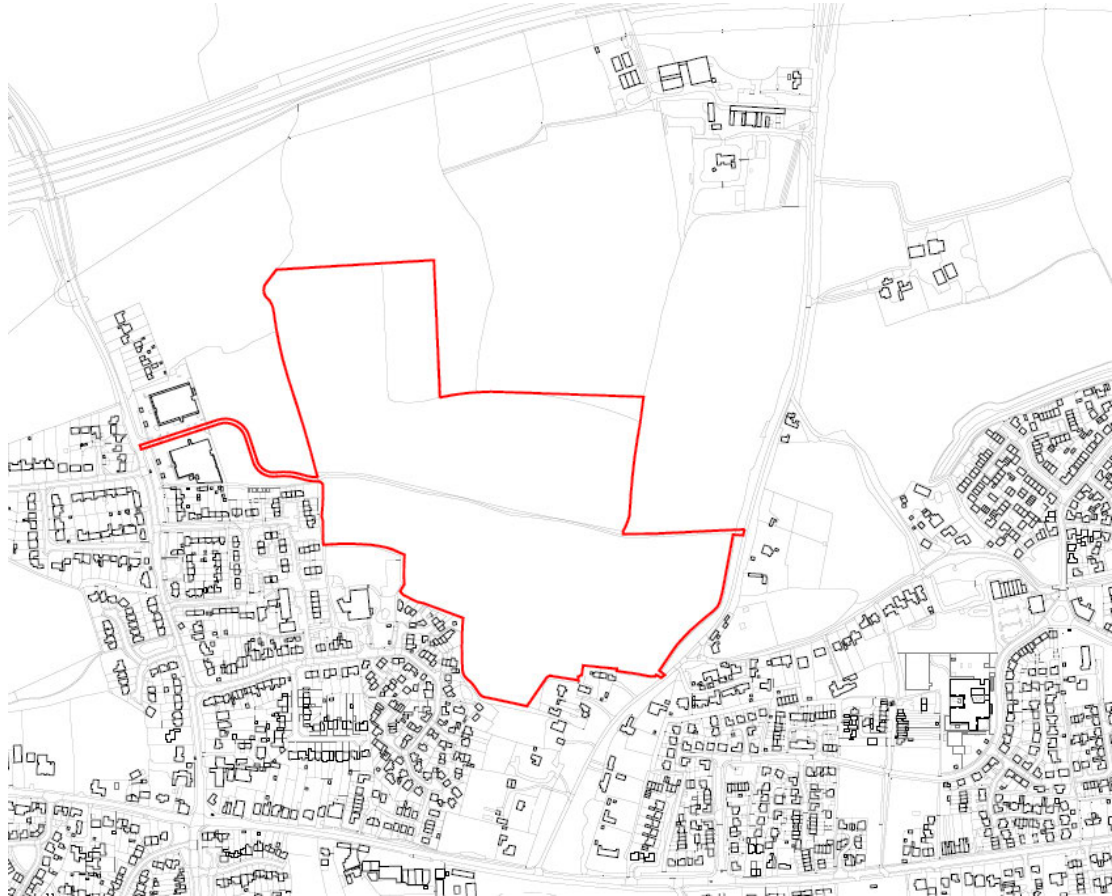


Figure 1 - Site Location Plan

- 1.2. The Site falls within the jurisdiction of Uttlesford District Council (UDC) and within the Parish of Takeley. The Site is situated to the south of Prior's Wood, on the west side of Smiths Green Lane and with vehicular access from Parsonage Road.
- 1.3. This application is made under Section 62A of the Town and Country Planning Act 1990, for 96no. dwellings. Accordingly, the proposed development description is as follows:

***“Access to/from Parsonage Road between Weston Group Business Centre and Innovation Centre buildings leading to: 96 dwellings on Bulls Field, south of Prior's Wood, including associated parking, landscaping, public open space, land for the expansion of Roseacres Primary School, pedestrian and cycle routes to Smiths Green Lane together with associated infrastructure.”***

- 1.4. This Planning Statement should be read in conjunction with the following supporting documents and technical reports, which have been commissioned in support of the application:
- a) Planning Application Forms;
  - b) Ownership Certificate and Agricultural Land Declaration;
  - c) Design and Access Statement by Weston Homes;
  - d) Application Drawings – (see schedule at **Appendix A**);
  - e) Air Quality Assessment by Aether;
  - f) Arboricultural Impact Assessment by Barton Hyett;
  - g) Ecology Documents Note by Weston Homes; including
    - a. Biodiversity Checklist;
    - b. Ecological Assessment by Ecology Solutions;
    - c. Briefing Note: Ecological Appraisal by Ecology Solutions;
    - d. Bat Survey Report by Ecology Solutions;
    - e. Bird Hazard Management Plan by Ecology Solutions;
    - f. Biodiversity Net Gain Report by Ecology Solutions;
    - g. Woodland Management Plan by Ecology Solutions;
  - h) Landscape Strategy by LDA Design;
  - i) Landscape Ecology Management Plan by LDA Design;
  - j) Landscape and Visual Impact Assessment by LDA Design;
  - k) Sustainability Statement by Weston Homes;
  - l) Environmental Noise Assessment by Stansted Environmental Services;
  - m) Phase 1 Desk Study and Preliminary Risk Assessment by Stansted Environmental Services;
  - n) Flood Risk Assessment & SuDS Report by EAS;
  - o) Archaeological Desk Based Assessment by RPS
  - p) Archaeological Written Scheme of Investigation by RPS;
  - q) Build Heritage Assessment by RPS;
  - r) Transport Assessment by Motion;
  - s) Residential Travel Plan by Motion;
  - t) Affordable Housing Statement by Weston Homes; and
  - u) Energy Statement by Stansted Environmental Services.
- 1.5. This Planning Statement is set out in the following sections; Section 2 describes the Site and its surroundings. Section 3 will describe the proposals of the application. Section 4 will set out the planning policy context. Section 5 will set out how the proposals within this application address the requirements of the most relevant planning policies and other material planning considerations. Section 6 provides an overall summary and conclusion.

## Background

- 1.6. The Site formed part of a previous application (Ref. No. UTT/21/1987/FUL) for the development of a wider site known as 'Warish Hall Farm' (see Figure 2 below) which sought full planning permission for, *inter alia*, 188no. dwellings, 3000Sqm of commercial space, a medical centre, 1ha of land to facilitate the future expansion of Roseacres Primary School, a 1ha extension to Prior Wood, and generous provision of publicly accessible open space.





Figure 2 - The Appeal Scheme (Ref. No. UTT/21/1987/FUL - APP/C1570/W/22/3291524)

- 1.7. The application was presented at committee on 15th December 2021. Despite the Officers' recommendation to approve the proposal, it was refused at committee for the following reasons:
1. *The proposed form of the development is considered incompatible with the countryside setting, and that of existing built development in the locality.*
  2. *The proposal would result in less than substantial harm to a number of designated and non-designated heritage assets.*
  3. *The proposed development does not provide sufficient mitigation in terms of its impacts upon the adjacent Ancient Woodland at Prior's Wood.*
  4. *Absence of a Section 106 agreement to secure appropriate infrastructure.*
- 1.8. Following the decision made by the UDC Planning Committee, an appeal against the decision was submitted under Section 78 of the Town and Country Planning Act 1990 (as amended).
- 1.9. The appeal (Ref. APP/C1570/W/22/3291524) was dealt with via a Public Inquiry, where it was dismissed by the Inspector on the grounds of impact on a number of heritage assets and on the character of the countryside. A copy of the Inspector's decision can be found at **Appendix B**.

### **About Weston Homes**

- 1.10. Weston Homes was established in 1987, with its head office based in Takeley, Essex. Since its establishment, the Weston Group has grown rapidly and its portfolio of innovative, bespoke, new build development which range from traditionally styled, bricks and mortar houses and apartment buildings to contemporary, complex, higher density developments within London. These projects include new-build sites with ground-breaking contemporary design as well as the restoration and refurbishment of historical listed buildings. Currently the Weston Group employs approximately 450 staff.
- 1.11. Weston Homes' schemes range from small housing schemes through to complex schemes of over a thousand homes, with no two sites being the same. Specialising from the outset in the regeneration of predominantly brownfield sites, Weston Homes has become a leader in this area of development but also has a strong record on rural locations which have also included Clavering (Uttlesford), Cambridge and Buntingford. With strong track record in delivery of between 600-1,000 dwellings per annum, current development locations include, Takeley, London, Cambridge, Brentwood, Aldershot and Bury St Edmunds.

### **Modern Methods of Construction – British Offsite**

- 1.12. The Weston Group has recently undertaken significant development into Modern Methods of Construction through the investment into sister company 'British Offsite' with its headquarters in the neighboring Braintree District.
- 1.13. British Offsite have been developing factory finished components, by utilising high tech manufacturing of modular systems for a number of developments including bathroom vanity units, fitted furniture including wardrobes, kitchen worktops, and notably structurally insulated panels (SIP) to be used in the construction of building superstructure. These components are to roll onto all Weston Homes sites including conventional housing as well as apartment schemes.

## 2. Site Context & Overview

2.1. The Site abuts the settlement edge of the north of Takeley and to the south of Prior's Wood. The Site is approximately 19.8ha in area and is mostly flat and level. Figure 3 below sets out the Site location and its relationship with the existing settlement boundary.

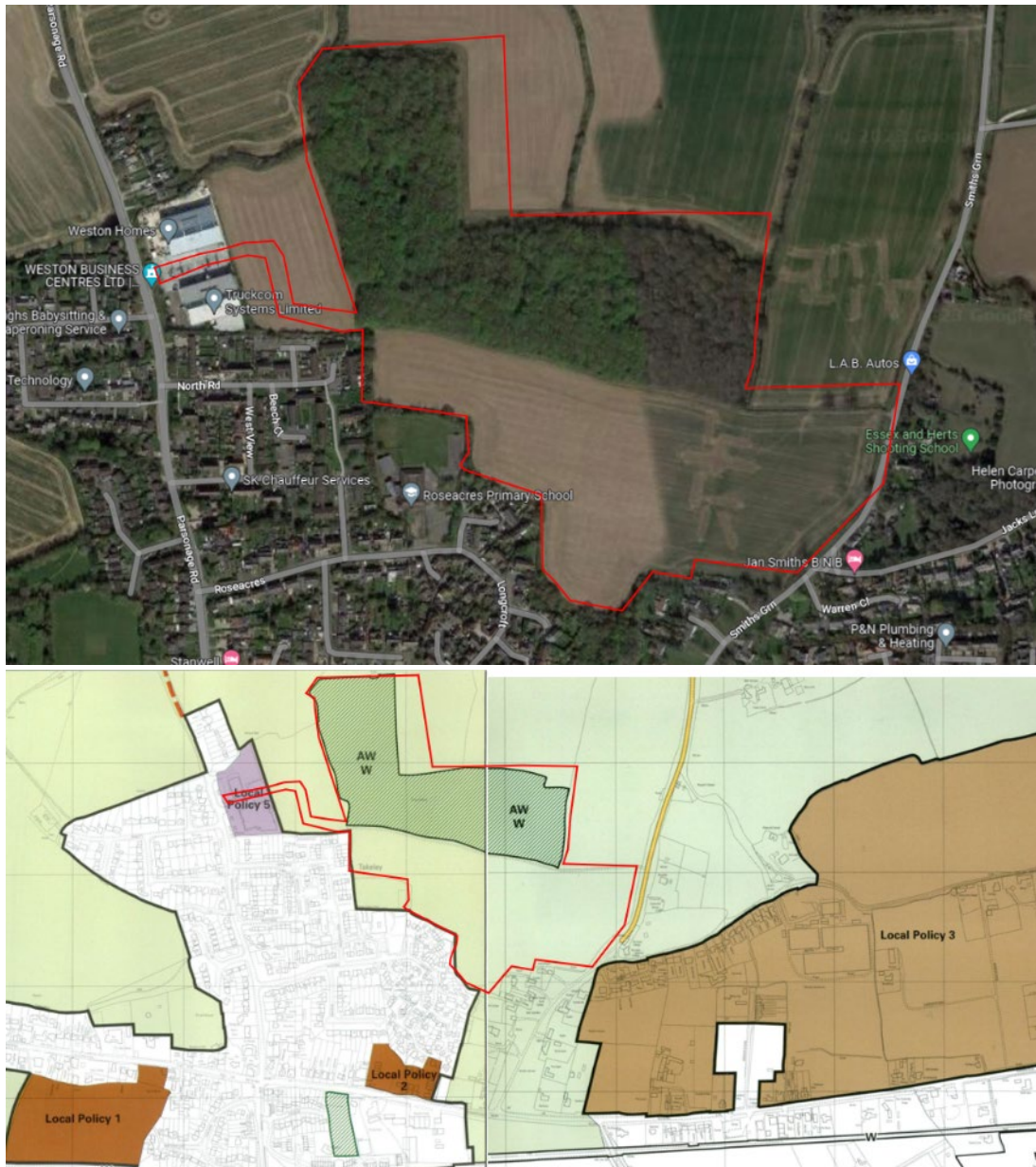


Figure 3 - Site Location and Settlement Boundary

2.2. The village of Takeley is located along Dunmow Road (B1265) which formed the route of the old A120, which ran through the village until 2002/3 prior to bypassing to the north of the village. Dunmow Road runs east-west through Takeley.

- 2.3. Takeley is located between Great Dunmow, which is 6km to the east, and Bishop's Stortford, 7.5km to the west. A former railway branch line running between the two towns and onwards to Braintree now forms a linear county park used as a cycleway/walking route (National Cycle Route 16), and commonly known as the 'Flitch Way' which is approximately 25km in length in total. The Flitch Way runs to the south of the village.
- 2.4. Within Uttlesford District, Takeley is one of the largest villages and is considered a 'Key Rural Settlement', the highest order of settlement below Stansted Mountfitchet village and the main towns of Great Dunmow and Saffron Walden. As such, Takeley benefits from a number of facilities and services including, but not limited to; two primary schools, child day-care and nurseries, convenience stores, a pharmacy, dentist, churches, pubs, restaurants and takeaways together with a number of community halls/spaces supporting a range of village clubs and societies.
- 2.5. There are also a range of businesses located within the village providing employment opportunities, including at the Takeley Business Centre, Dunmow Road and at the Weston Group Business Centre, which provides serviced offices adjacent to the Weston Homes HQ (Weston Innovation Centre), with around 200 staff.
- 2.6. The village has good access to public transport by way of frequent bus routes that also connects to one of the main public transport interchanges in the county and also the largest employment site within UDC, at Stansted Airport, which is located 2km north of the Site. Due to the proximity of the airport, the Site falls within the safeguarding area associated with aerodrome safety.
- 2.7. Smiths Green Lane (also known as Warrish Hall Road) runs between Dunmow Road and Bamber's Green, a small hamlet to the northeast of the village. The southern section of the Lane has residential development on either side forming Smiths Green, with most houses set back a considerable distance from the carriageway and separated by verges. To the north, the road forms the eastern boundary to Bull Field and Jacks field lies to the west. There are a handful of houses along the west side of Smiths Green Lane, north of Jacks Lane. The road then runs towards the A120 and beyond to the north through open countryside with sporadic residential and agricultural development. Smiths Green Lane, from the point north of Jacks Lane is designated as a 'Protected Lane', which is a non-designated heritage asset.
- 2.8. There is an area of verge which runs along both sides of Smiths Green Lane, including along the eastern boundary of the Site, which is designated as Village Green. This was a matter discussed as part of the Inquiry relating to the previous application to develop the wider Warish Hall Farm Site. It is crossed by existing rights of way and field entrances (see paragraph 2.12 below).
- 2.9. The issue of the presence of the Village Green was raised as a factor to be addressed alongside any grant of planning permission and is not an impediment here as there will be no loss. The threshold for requiring the area lost as a result of the proposals to be replaced, as set out in the relevant guidance is 200 Sqm. The process of dealing with the Village Green is a matter which is outside of the remits of planning and thus will be dealt with alongside any planning process.



- 2.10. The Site is located 1.6km northeast of Hatfield Forest, a Site of Special Scientific Interest (SSSI) and National Nature Reserve (NNR).
- 2.11. The Site falls on the outer edge of the Countryside Protection Zone (CPZ), an area surrounding Stansted Airport which is designated to prevent coalescence between the airport and its surroundings. It was first designated in the 1995 Local Plan. The Countryside Protection Zone is governed by Policy S8 of the Uttlesford Local Plan 2005.
- 2.12. There are two public rights of way (PROWs) running through the Site (PROW Takeley\_40 and Takeley\_41). See figure 4 below which sets out the location of the PROWs.

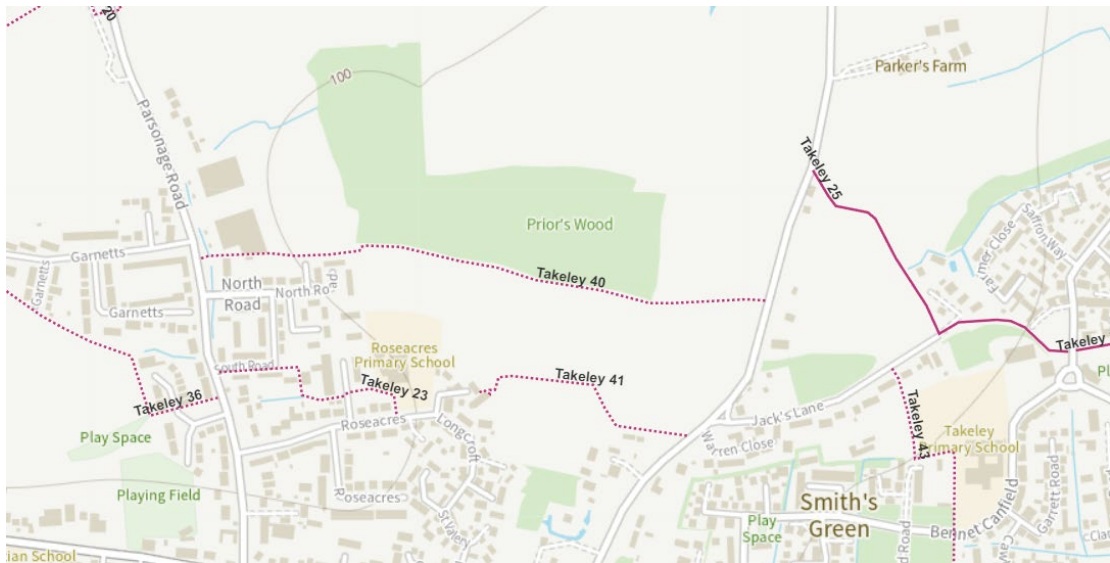


Figure 4 - PROW Locations

- 2.13. These PROWs provide connections to Parsonage Road, Roseacres Primary School and onwards to the Four Ashes Junction /Shopping Parade.
- 2.14. To the east of the Site, PROW Takeley\_25 provides a connection into Priors Green, via Jacks Lane.
- 2.15. There are a number of designated heritage assets within the vicinity of the Site. To the north of the Site sits the Ancient Scheduled Monument known as Warish Hall moated site and remains of Takeley Priory (NHLE:1007834). Warish Hall itself and the associated Moat Bridge is a Grade I listed asset. There is a collection of Grade II listed Grade II\* listed buildings to the east and southeast of the Site within Smiths Green, including:
  - Hollow Elm Cottage (Grade II, NHLE: 1112220)
  - Goar Lodge (Grade II, NHLE: 1168972)
  - Beech Cottage (Grade II, NHLE: 1112212)
  - The Croft (Grade II, NHLE: 1168964)
  - White House (Grade II, NHLE: 1322592)
  - The Cottage (Grade II, NHLE: 1306743)

- The Gages (Grade II, NHLE: 1168954)
  - Pump at Pippins (Grade II, NHLE: 1112210)
  - Cheerups Cottage (Grade II, NHLE: 1112207)
- 2.16. As set out above, Smiths Green Lane is classified by UDC as a 'Protected Lane' (non-designated heritage asset) which has a degree of historic significance but does not warrant statutory listing.
- 2.17. Figure 5 below sets out the Heritage Assets considered as part of this Application.

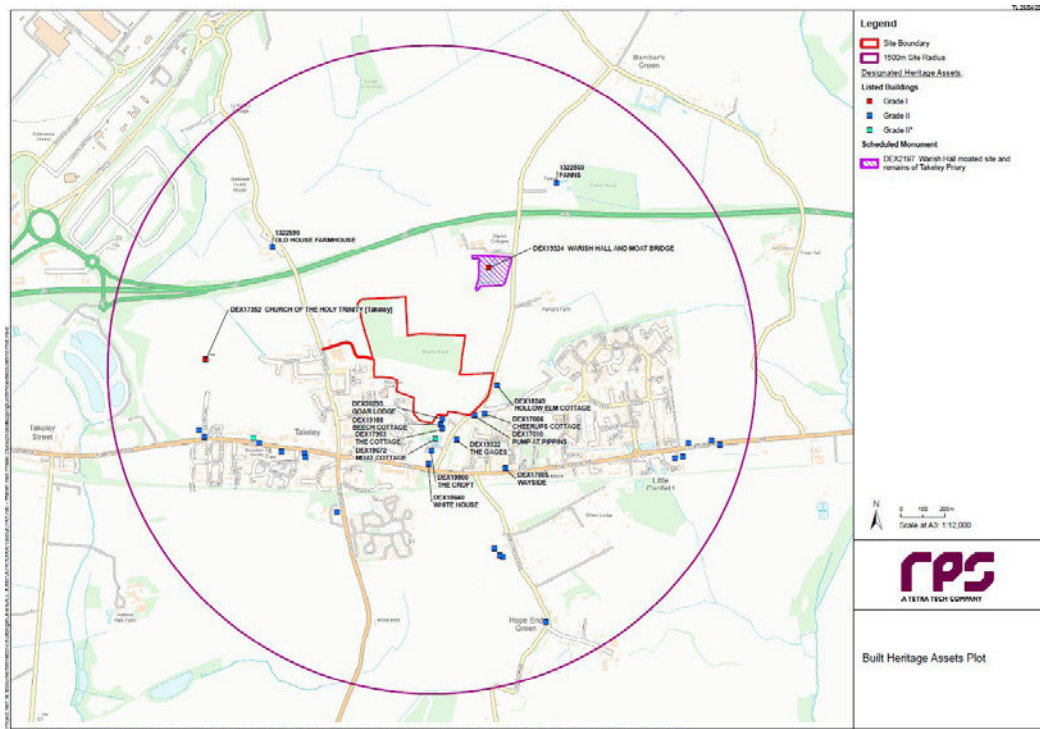


Figure 5 - Location of Heritage Assets

- 2.18. The Site does not fall within, or close to, any designated conservation area. Weston Homes are aware of the emerging proposals to make Smiths Green a Conservation Area, albeit that these are in the very early stages and therefore this cannot hold any weight in the decision making process. However, due consideration has been given within the proposals, to the area's historical importance as a whole, particularly in relation to the surrounding designated heritage assets.

### 3. Application Proposals

- 3.1. The development proposed has been designed to form a sustainable extension to Takeley, well related to the existing settlement and which offers and secures a number of public benefits, most notably, the provision of much need new housing, including a policy compliant level of affordable housing.
- 3.2. The development comprises:
- i. 96no. New Homes; including*
  - ii. 39no. Affordable Homes;*
  - iii. Public Open Space, including play space;*
  - iv. Woodland Extension; and,*
  - v. Associated parking and infrastructure;*

#### **The Proposed Development**

- 3.3. The Site is an extension to the established settlement of Takeley, an area that has been subject to more recent expansion with the Priors Green Development to the southeast of the development Site.
- 3.4. Access to the Site is provided from Parsonage Road, via the Site known as 7 Acres, which is the subject site of a recent planning approval in April 2023 (Ref. No. UTT/22/2744/FUL) for 4no. commercial units including provision for a medical centre with related parking and landscaping. The access road provides vehicular access for residential dwellings, servicing and visitor parking via a network of private drives and mews courts but terminates at the open space. Separate segregated cycle and footways are provided.
- 3.5. The Application Site can be broken down into 5 main character areas, which are set out below:
- **Woodland Edge;**
  - **Village Streets;**
  - **Key Corner;**
  - **Green Link; and**
  - **Rural Edge.**
- 3.6. The character areas are shown on Dwg. No. WH202C\_10\_P\_10.10 – Character Area, which has been submitted as part of the application. A description of each character area is set out below, although more detail can be found within the Design and Access Statement (DAS).

**Woodland Edge**

- 3.7. This area runs from west to east along the southern edge of Prior's Wood in a linear formation. The dwellings fall south of the access road and front onto the woodland and the green cycle/pedestrian link providing a sustainable route between Smiths Green Lane to the east and Parsonage Road to the west.
- 3.8. Dwellings in this character area are either terraced, detached or semi-detached with driveways accessed directly from the main access road.
- 3.9. There is a footpath to the south of the main access road, which provides easy pedestrian access to the proposed dwellings and to/from Parsonage Road, and into the rest of the development.
- 3.10. Dwellings in this character area do not exceed 2 storeys in height.

**Village Streets**

- 3.11. This area is situated at the centre of the development and comprises a mixture of flats above garages (FOGs), detached, semi-detached and terraced dwellings. Some of these dwellings have driveways, some garages and some with courtyard parking areas.
- 3.12. The dwellings are accessed via the access road, with a footpath providing pedestrian access. There are also secondary roads/ cul-de-sacs with shared surfaces for both pedestrians and vehicles.
- 3.13. Dwellings in this area do not exceed two storeys in height.

**Key Corner**

- 3.14. This area comprises two two storey apartment buildings which front onto the main internal road and the green link providing shared access between Smiths Green Lane and Roseacres Primary School.
- 3.15. The apartment buildings are served by a parking court to the rear of the blocks.

**Green Links**

- 3.16. This character area comprises a mixture of detached and terraced dwellings which front onto the green link pedestrian/ cycle way.
- 3.17. The dwellings do not exceed two storeys in height and are served by a mixture of private driveways and garages and parking courtyard to the rear of the dwellings.



### **Rural Edge**

- 3.18. This character area contains detached dwellings which are served by provide driveways and garages.
- 3.19. Dwellings in this area do not exceed 2 storeys.
- 3.20. The dwellings are laid out in an informal orientation in order to create a natural settlement edge.

### **Open Space Provision**

- 3.21. There is currently limited provision of accessible open space, including play space in Takeley and Little Canfield.
- 3.22. This application includes the provision of formal and informal open space which runs along the eastern side of the development (Prior's Wood Green).
- 3.23. Prior's Wood Green North contains and LAP and LEAP with natural play features and timber equipment complimenting the neighbouring woodland and hay meadow setting. This space contains meandering paths providing connectivity with the PRow's to the north and south.
- 3.24. Prior's Wood Green South has an informal character, with groups of native trees to the edges. The area contains shallow dished infiltration basins forming part of the SuDs strategy. Existing paths to the field boundary are to be retained and improved through sensitive surface treatment.

### **School Land**

- 3.25. Alongside the character areas listed above, there is also a 1ha parcel of land within the application Site (see figure 6 below), which is reserved for the future expansion of the Roseacres primary school to the southwest of the application Site.
- 3.26. There is no development proposed within this parcel of land as it is reserved for the use of Roseacres Primary School when needed. A clause is proposed within the Draft Heads of Terms (**Appendix C**) to be incorporated into the Agreement to secure the school expansion land.



Figure 6 - Location of School Land

### The Appeal Scheme

- 3.27. As set out above, the proposed development a part of a previous scheme, submitted to UDC (Ref. No. UTT/21/1987/FUL) which was refused at Planning Committee on the 15<sup>th</sup> December 2021 and then dismissed on Appeal (August 2022).
- 3.28. The proposals of this application have given regard to the findings set out in the Inspector's report relating to the Appeal Scheme, and the proposals of this application seek to address the adverse impacts which the inspector identified with regard to the heritage assets within the area.
- 3.29. The further evolution of this application has sought to significantly reduce the impact which the scheme has on the surrounding heritage impacts, particularly those along Smiths Green Lane, including the Ancient Scheduled Monument to the north of the Site.
- 3.30. The development in the east of the Site proposed in the Appeal Scheme has been removed entirely and development is set back from the sensitive edge along Smiths Green Lane. Careful consideration has gone into the design, layout and orientation of the dwellings on the eastern edge of the development Site, to reduce the impact upon the heritage assets in the surrounding area.
- 3.31. The table at **Appendix D** sets out the relevant comments made by the Inspector in his decision and provides a summary of how this application has responded to those comments.

## 4. Planning Policy

4.1. Paragraph 38(6) of the Planning and Compulsory Purchase Act 2004 requires that:

*'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Act then determination must be made in accordance with the plan unless material considerations indicate otherwise.'*

4.2. Accordingly, this section sets out the relevant development plan policies to the determination of this application along with any relevant material considerations which should be taken into account in the determination of this application in line with the provisions of Paragraph 38(6) of the Planning and Compulsory Purchase Act 2004, as set out above.

4.3. The Adopted Development Plan for UDC comprises the Saved Policies from the Uttlesford Local Plan (2000-2010) Adopted in 2005.

4.4. Alongside the relevant Development Plan, it is necessary to consider whether relevant Development Plan policies are up to date; The National Planning Policy Framework (NPPF); and other material planning considerations. This is considered within this section of the planning statement.

4.5. NPPF paragraph 219 states that due weight should be given to relevant policies in existing plans according to their "degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)". As stipulated by national guidance, the adopted Local Plan cannot therefore be attributed full weight in the determination of planning application. This position has been agreed by the Council as part of a number of recent appeals, including the Appeal in relation to the Warish Hall Farm Scheme (The Appeal Scheme).

4.6. It is considered that there is a fundamental inconsistency between the Local Plan and the NPPF and relevant national guidance, especially with regard to the quantity and location of development within the District. Notably, the defined development boundaries and spatial policy H1 (Housing Development) are woefully out of date; they fail, in any respect, to deal with up-to-date housing need figures and do not allow for the level of growth required for new housing within the District.

4.7. The policies of the Uttlesford Local Plan which are most relevant to the proposals of this application are listed below and described in the following paragraphs. Weight attributed to each policy is therefore diminished in all cases and dependant on conformity with the NPPF, no weight or limited weight will apply as is explored in the subsequent Section:

- Policy S7 - The Countryside;
- Policy S8 - The Countryside Protection Zone;
- Policy GEN1 - Access;
- Policy GEN2 - Design;
- Policy GEN3 - Flood Protection;
- Policy GEN4 - Good Neighbourliness;
- Policy GEN5 - Light Pollution;

- Policy GEN6 - Infrastructure Provision to Support Development;
  - Policy GEN7 - Nature Conservation;
  - Policy GEN8 - Vehicle Parking Standards;
  - Policy ENV2 - Development affecting Listed Buildings;
  - Policy ENV3 - Open Space and Trees;
  - Policy ENV7 - The Protection of the Natural Environment - Designated Sites;
  - Policy ENV8 - Other Landscape Elements of Importance for Nature Conservation;
  - Policy ENV9 - Historic Landscapes;
  - Policy ENV10 - Noise Sensitive Development and Disturbance from Aircraft;
  - Policy ENV11 - Noise Generators;
  - Policy ENV14 - Contaminated Land;
  - Policy H9 - Affordable Housing; and
  - Policy H10 - Housing Mix.
- 4.8. Policy S7 (The Countryside) defines the countryside as those areas beyond the Greenbelt, which do not fall within the settlement or other site boundaries. Policy S7 sets out that development in the countryside will only be permitted where it needs to take place or is appropriate to a rural area.
- 4.9. Policy S8 (Countryside Protection Zone) designates an area of countryside around Stansted Airport, which is defined on the Policy Map. Development in the Countryside Protection Zone (CPZ) will only be granted where it is required to be there, or it is appropriate to the rural area. Policy S8 is split into two sections. The first sets out that development will not be permitted where it promotes coalescence between the airport and existing settlements. The second section sets out that development will not be permitted where it adversely effects the openness of the zone.
- 4.10. Policy GEN1 (Access) states that development will only be permitted if it meets the following criteria: (a) Access to the main road must be capable of carrying the traffic generated by the development safely; (b) The traffic generated by the development must be capable of being accommodated on the surrounding transport network; (c) The design on the site must not compromise road safety and must take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired; (d) It must be designed to meet the needs of people with disabilities if it is development to which the general public expect to have access; (e) the development encourages movement by means other than a car.
- 4.11. Policy GEN2 (Design) requires that development proposals have regard to the Design Supplementary Planning Document and other Supplementary Planning Documents. It also sets out that development will not be permitted unless it meets the following criteria: (a) It is compatible with the scale, form, layout, appearance and materials of surrounding buildings; (b) It safeguards important environmental features in its setting, enabling their retention and helping to reduce the visual impact of new buildings or structures where appropriate; (c) It provides an environment, which meets the reasonable needs of all potential users; (d) It helps to reduce the potential for crime; (e) It helps to minimise water and energy consumption; (f) It has regard to guidance on layout and design adopted as supplementary planning guidance to the development plan; (g) It helps to reduce waste production and encourages recycling and reuse; (h) It minimises the environmental impact on neighbouring properties by

- appropriate mitigating measures; and (i) It would not have a materially adverse effect on the reasonable occupation and enjoyment of a residential or other sensitive property, as a result of loss of privacy, loss of daylight, overbearing impact or overshadowing.
- 4.12. Policy GEN3 (Flood Protection) requires that developments which are outside of flood risk areas, which is the case for the application site, must not increase the risk of flooding through surface water run-off. A flood risk assessment is required to demonstrate this.
  - 4.13. Policy GEN4 (Good Neighbourliness) outlines that development will not be permitted where: (a) noise or vibrations generates; or (b) smell, dust, light, fumes, electromagnetic radiation, exposure to other pollutants, would cause; material disturbance or nuisance to occupiers of surrounding properties.
  - 4.14. Policy GEN5 (Light Pollution) sets out that development that includes a lighting scheme will not be permitted unless: (a) the level of lighting and its use is the minimum necessary to achieve its purpose; and (b) glare and light spillage is minimised from the site.
  - 4.15. Policy GEN6 (Infrastructure Provision to Support Development) outlines that development will not be permitted unless it makes provision for infrastructure needs. In cases where the cumulative impact of developments necessitates such provision, developers may be required to contribute to the costs of such provision.
  - 4.16. Policy GEN7 (Nature Conservation) sets out that where the site contains protected species or habitats which are suitable for protected species, a survey will be required. Measures to mitigate or compensate the impacts of the proposed development will be required to be implemented. Policy GEN7 also encourages the enhancement of biodiversity by the creation of appropriate new habitats.
  - 4.17. Policy GEN8 (Vehicle Parking Standards) sets out that development will not be permitted unless the parking provided is in line with the standards set out in the Supplementary Planning Guidance, "Vehicle Parking Standards".
  - 4.18. Policy ENV2 (Development affecting Listed Buildings) requires that any development which affects a Listed Building should be in-keeping with its scale, character and surroundings. Demolition of a Listed Building or development which will lead to adverse impacts will not be permitted.
  - 4.19. Policy ENV3 (Open Space and Trees) outlines that development will not be permitted if it results in the loss of important spaces, groups of trees and fine individual specimens, unless the need for the development outweighs the amenity value of the space or tree(s).
  - 4.20. Policy ENV7 (The Protection of the Natural Environment - Designated Site) protects areas of nationally important nature conservation concern. Conditions and obligations may be applied to ensure the protection and enhancement of the site's conservation interest if development is brought forward.

- 4.21. Policy ENV8 (Other Landscape Elements of Importance for Nature Conservation) protects hedgerows, linear tree belts, larger semi natural or ancient woodlands, semi natural grasslands, green lanes and special verges, orchards, plantations, ponds, reservoirs, river corridors, wetland features and networks or patterns of other locally important habitats. Proposals which adversely impact these landscape elements will only be permitted if the following criteria applies: (a) The need for the development outweighs the need to retain the elements for their importance to wild fauna and flora; (b) Mitigation measures are provided that would compensate for the harm and reinstate the nature conservation value or the locality. Appropriate management of these elements may be sought via conditions and planning obligations.
- 4.22. Policy ENV9 (Historic Landscapes) protects local historic landscapes, historic parks and gardens and protected lanes. Development which is likely to harm these assets will not be permitted unless the need for the development outweighs the historic significance of the site.
- 4.23. Policy ENV10 (Noise Sensitive Development and Disturbance from Aircraft) sets out that Housing or any other sort of noise sensitive development will not be permitted if occupants are expected to experience significant noise disturbance. This is to be assessed by the appropriate noise contour for the type of development, taking into account mitigation by design and sound proofing features.
- 4.24. Policy ENV11 (Noise Generators) outlines that noise generating development will not be permitted if it would be liable to affect the reasonable occupation of existing or proposed noise sensitive development nearby.
- 4.25. Policy ENV14 (Contaminated Land) requires a site investigation, risk assessment, proposals and timetable for remediation for all sites where contamination is known, or suspected and is or may cause significant harm or pollution of controlled waters, including groundwater.
- 4.26. Policy H9 (Affordable Housing) outlines that the Council will seek to negotiate on a site-by-site basis, an element of affordable housing of 40% of the total provision of housing on appropriate allocated and windfall sites. This will have due regard to the up-to-date Housing Needs Survey, market and site considerations.
- 4.27. Policy H10 (Housing Mix) sets out that on all development sites of 0.1 ha and above or providing 3 or more dwellings will be required to provide a significant proportion of market housing comprising small properties.
- 4.28. The Council has also adopted a number of Supplementary Planning Documents (SPDs) which form material considerations which are relevant to the proposals of this application.

4.29. The SPDs are set out below. Similarly, a number of these are considered out of date:

- Accessible Homes and Play Space (November 2005);
- Energy Efficiency and Renewable Energy (October 2007);
- Supplementary Planning Guidance to Takeley / Little Canfield Policy 3 Priors Green (Island Sites) (July 2003);
- Urban Place Supplement to the Essex Design Guide (March 2007);
- Essex County Council Development Management Policy (February 2011);
- Essex County Council Parking Standards (September 2009); and
- Essex Design Guide (2018).

4.30. There is also an Interim Climate Change Policy Document (Published in 2021), which, whilst not a formal SPD adopted by UDC, is considered a Material Consideration. The Sustainability Statement submitted in support of this application sets out how the proposals meet the application provisions of the Interim Climate Change Policy Document.

### The National Planning Policy Framework

4.31. The NPPF (2021) sets out the Government's policy on a range of topics. Paragraph 8 emphasises that there are three dimensions to sustainable development, namely: economic, social and environmental. The roles are defined as:

- a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution and mitigating and adapting to climate change, including move to a low carbon economy.

4.32. Paragraph 11 states that plans and decisions "should apply a presumption in favour of sustainable development". For decision making, this means:

- c) "approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in this Framework that protected 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."

- 4.33. Footnote 7 confirms that for the purpose of Paragraph 11(d) (Part i):

*“policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.”*

- 4.34. Footnote 8 acknowledges that Paragraph 11(d) also:

*“includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. Transitional arrangements for the Housing Delivery Test are set out in Annex 1.”*

- 4.35. The revised test set out at NPPF paragraph 11d (Part i) strengthens the presumption in favour of granting consent for development from that set out within the previous Framework, by imposing a higher threshold for displacement of that presumption.
- 4.36. The NPPF now only permits the presumption to be disengaged where application of the policies in NPPF alone protect areas or assets of particular importance, and where the provisions set out within the NPPF *“provides a clear reason for refusing the development proposed.”* Moreover, the types of policies are now exhaustively defined in the footnote, rather than being an illustrative list. None of the exemptions apply to the site, save for a single designated heritage asset but which this does not provide for a clear reason for refusing the development proposed.
- 4.37. UDC are currently unable to demonstrate a 5-year housing supply of deliverable housing sites, which is not in dispute. As required by footnote 8 of the NPPF, the presumption in favour of sustainable development is therefore engaged. Accordingly, the proposal must be considered in accordance with the presumption in favour of sustainable development and Paragraph 11. Whilst there may also be some dispute regarding the level of shortfall overall regarding the supply albeit below the 5-year threshold, it is also calculated that the level of housing delivered over the past three years will also trigger the presumption in favour. However, up to date Housing Delivery Test figures are awaited from government at the time of submission. Further detail on this is provided within the 5 Year Housing Land Supply Assessment, produced by Lichfields, which can be found at **Appendix E**.
- 4.38. The proposal involves housing development, as such, section 5 of the NPPF is particularly relevant. Paragraph 60 confirms the Government’s commitment to the delivery of new homes by setting out in unequivocal terms that *“to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay”*.



- 4.39. Paragraph 68 of the framework outlines that planning policies should identify sufficient supply and mix of sites for delivering homes, taking into account their availability, suitability and likely economic viability.
- 4.40. Paragraph 74 of the framework reiterates the importance on maintaining and delivering a consistent supply of homes of a 5-year period.
- 4.41. Paragraph 78 of the framework sets out that in rural areas, decisions on potential housing developments should be responsive to local circumstances and should support proposals which reflect local needs.
- 4.42. Paragraph 92 of the framework encourages the promotion of healthy and safe communities and requires that decisions aim to achieve this by: (a.) promoting social interaction; (b.) making safe and accessible places; and (c.) enabling and supporting healthy lifestyles.
- 4.43. Paragraph 95 sets out that It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. It confirms that “great weight” should be given to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and b) work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.
- 4.44. Paragraph 98 of the framework highlights the importance of a community having access to a network of high-quality open spaces and opportunities for sport and physical activity. The provision of open spaces for sports and recreation should be informed by assessments of the relevant local need.
- 4.45. Paragraph 111 of the framework sets out that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 4.46. Paragraph 112 of the framework states that development should: (a.) give priority firstly to cyclist and pedestrian movement, then to access to high quality public transport; (b.) address the needs of people with disabilities and reduced mobility in relation to all modes of transport; (c.) create safe, secure and attractive places and minimise scope for conflict between pedestrians, cyclists and vehicles, avoid unnecessary street clutter and respond to local character and design standards; (d.) allow for efficient delivery of goods, and access by service and emergency vehicles; (e.) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible locations.
- 4.47. Paragraph 119 of the framework requires policies and decisions to promote an effective use of land in meeting the need for homes and other uses, whilst safeguarding and improving the environment and ensuring safe and healthy living conditions.

- 4.48. Paragraph 124 of the framework highlights how the appropriate densities of development may be met, in making efficient use of land. It states that decisions should support development making efficient use of land, taking account of the identified need for different types and forms of housing, the local market conditions and viability, the availability and capacity of local infrastructure and services, the desirability of maintaining an area's prevailing character and setting; and the importance of securing well-designed, attractive and healthy places.
- 4.49. Paragraph 126 highlights the importance of creating high quality buildings and places through the planning system and development process.
- 4.50. Paragraph 130 of the framework sets out that policies and decisions should ensure developments will function well and add overall quality to the area; are visibly attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and setting; establish or maintain a strong sense of place; optimise potential of the site to accommodate and sustain an appropriate amount and mix of development; and create safe, inclusive and accessible places.
- 4.51. Paragraph 152 of the framework outlines that the planning system should support the transition to a low carbon future, taking full account of flood risk and coastal change.
- 4.52. Paragraph 159 of the framework requires that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at the highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
- 4.53. Paragraph 174 of the framework sets out that decisions and policies should contribute to and enhance the natural and local environment by: (a.) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; (b.) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services; (c.) maintaining the character of undeveloped coast; (d.) minimising the impacts on and providing net gains for biodiversity; (e.) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability; and (f.) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land.
- 4.54. Paragraph 180 sets out the following principles for determining applications: (a.) if significant harm to biodiversity cannot be avoided, adequately mitigate, or at last resort, compensated for, permission should be refused; (b.) development on land within or outside a Site of Specific Scientific Interest which is likely to adversely impact upon it, shall be refused, unless the benefits of the scheme outweigh the impacts upon that asset; (c.) development resulting in loss or deterioration of irreplaceable habitats should be refused, unless there is wholly exceptional reasons and a suitable compensation strategy is in place; and (d.) developments with the primary objective is to conserve or enhance biodiversity should be supported, whilst measures to support the enhancement to biodiversity should be encouraged.

- 4.55. Paragraph 184 sets out that where a site is affected by contamination or land stability issues, the responsibility for securing a safe development, rests with the developer and/or landowner.
- 4.56. Paragraph 194 of the framework requires that applications give due consideration to the extent (if any) of the impact the proposals may have on designated and non-designated heritage assets.
- 4.57. Paragraph 199 of the framework relates to proposals affecting heritage assets and sets out that when considering the potential impacts a development has on a heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 4.58. Paragraph 202 sets out that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In relation to non-designated heritage assets, paragraph 197 states that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 4.59. Paragraph 203 sets out that where an application will result in effecting the significance of a non-designated heritage asset, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

## 5. Planning Considerations

- 5.1. This Section will explore the main issues relating to the proposals, which are considered to be the following:
- a. Presumption in Favour of Sustainable Development;
  - b. Principle of Sustainable Development;
  - c. Loss of Agricultural Land;
  - d. Countryside Protection Zone
  - e. Landscape and Visual Impact;
  - f. Heritage;
  - g. Landscaping and Public Open Space;
  - h. Ecology and Arboricultural Matters;
  - i. Access, Highways and Parking;
  - j. Housing Mix and Affordable Housing;
  - k. Design, Appearance and Layout;
  - l. Residential Amenity;
  - m. Flood Risk and Drainage;
  - n. Contamination;
  - o. Noise;
  - p. Air Quality;
  - q. Airport Safeguarding;
  - r. Sustainable Design and Construction;
  - s. Community Involvement; and
  - t. Planning Obligations.

### Presumption in Favour of Sustainable Development

- 5.2. The need to identify a sufficient supply and mix of housing is required by paragraph 68 of the framework and paragraph 74 reiterates the importance of maintaining and delivering a consistent supply of homes over a 5-year period.
- 5.3. There is no contention over the fact that UDC is currently failing to demonstrate a 5-year housing land supply (HLS), as set out in the last position statement (December 2022), the District has a 4.89 years supply, which was also recently confirmed in the decision on the Section 62A Application (Ref. No. S62A/22/0012) in relation to the Land East of Station Road, Elsenham. Although this is an improvement on the previous figure of 3.52 years supply, it still falls below 5 years and the presumption in favour of granting planning permission remains.
- 5.4. Policy H1 requires an average provision of 459 dwelling per annum (dpa) whereas the Council's latest statement on HLS and housing trajectory, contains a standard method requirement of 701 dpa for the District. This results in a deficit of some 242 dwellings per annum. The circumstances pertaining to the lack of an adequate 5YHLS are likely to prevail for the foreseeable future, given the early stages of the preparation of a replacement Local Plan, which is unlikely to be adopted before 2025 at the earliest, based on the Councils' most recent Local Development Scheme (2022).

- 5.5. A supporting statement has been produced by Lichfields in support of this application (see **Appendix E**), which provides a review of UDC’s latest 5 year housing land supply set out in the position statement published in December 2022. The report concludes UDC’s current 5 year Housing Land Supply position currently sits at 4.45 years supply. A summary of the findings within the Lichfields report is set out in figure 7 below.

	Utlesford District Council	Lichfields
<b>Annual Requirement</b>	693	684
<b>Buffer</b>	5%	5%
<b>Total Five-Year Requirement</b>	3,638	3,591
<b>Supply</b>	3,560	3,195
<b>Five Year Housing Supply</b>	4.89 years	4.45 years
<b>Shortfall/Surplus</b>	-78	-396

Figure 7 - Lichfields - 5 Year Housing Land Supply Review

- 5.6. Within a recent Appeal Decision (Ref. No. APP/C1570/W/22/3296064) dated: 13<sup>th</sup> March 2023, relating to Helena Romanes School, Dunmow, the Inspector found that UDC’s housing land supply was likely to be closer to 4 years as invited by the appellant as part of their case during the appeal. Paragraph 57 of the Helena Romanes School Decision, which is in **Appendix F** states:

*“The LPA have not sought to rebut the appellant’s evidence and suggested at the hearing that to some extent the consequence is immaterial, in that both parties agree there is not a requisite deliverable supply such that paragraph 11d) of the NPPF would be engaged. I return to the matter of the overall balances to be applied below, but conclude here based on the evidence before me, that the deliverable housing land supply to be closer to the 4 years invited by the appellant. The consequence of this is that the appeal proposal would make a significant contribution towards meeting housing need and given the extent of the shortfall identified, the public benefit arising from additional new homes should be given very significant weight in any balancing exercise.”*

- 5.7. Accordingly, it is not disputed that the UDC is currently unable to demonstrate a 5 Year Housing Land Supply, the review undertaken by Lichfields identifies that the shortfall is likely to be greater than UDC had set out in the statement published in December 2022. The Lichfield report set out that there is a shortfall of 396 dwellings over the next 5 years, in comparison to the shortfall of 78 units identified by UDC. This presents a significant increase in the identified shortfall and so should be given due consideration.

- 5.8. In such situations where an LPA fails to demonstrate a 5-year HLS, paragraph 11d of the NPPF triggers the engagement of the tilted balance, and the presumption in favour of granting planning permission for sustainable housing development, unless any adverse impacts of doing so would **significantly and demonstrably** outweigh the benefits, when assessed against the policies of the framework.
- 5.9. For the Application Site, none of the 'footnote 7' exemptions listed against paragraph 11d are relevant and would not disengage the tilted balance. Within the Inspector's Decision (**Appendix B**) relating to the dismissed Warish Hall Farm Scheme, at paragraph 98 he set out the following:
- "Having applied the balance under NPPF paragraph 202 in respect of all of the affected designated heritage assets, I have found that the public benefits would not outweigh the less than substantial harm arising. This means that under NPPF paragraph 11, d), i, footnote 7, paragraph 202 is a specific policy in the Framework that indicates that development should be restricted. Therefore, whether or not a five-year housing land supply can be demonstrated is not determinative in this appeal, and the presumption in favour of sustainable development is not available to the proposal in hand."*
- 5.10. As set in Section 3, the proposals part of this application have taken into account the comments from both Place Services and the Inspector in regard to the impact upon the Heritage Assets and has been fundamentally amended to significantly reduce the overall impact to the 'low level of less than substantial harm'. The amended proposal also reduced the quantity of impacted assets from eleven to just three. This position has been agreed by Place Services (1<sup>st</sup> December 2022) and Historic England during pre-application discussions clarified in their comments (18th October 2021) that they had no objection to *"that part of the application site tucked directly to the south of Prior's Wood"* as per the current proposals in relation to the application proposals.
- 5.11. Accordingly, when assessing the proposals against the provisions of paragraph 202 of the framework, the cumulative impact has been reduced as a result of the reduction in the quantity of impacted assets and the reduction of the scale and magnitude of the impact. With this in mind, the proposals of this application do not now disengage the tilted balance through the provisions of 'footnote 7'.
- 5.12. Since the Appeal there is further very real evidence of a shortening of housing supply impacting those wishing to occupy their own home within the District, that currently cannot. This includes the growing need for affordable housing for which the Council's own waiting list stands at over 1,299 people, as of April 2023 and this has risen by over 200 people from January 2021 (See FOI at **Appendix G**). In stark contrast, over the 5 years from 2015/16 to 2020/21 the average number of affordable homes delivered in the District per year was just 186, just 15% of the current waiting list.
- 5.13. As set out above, in December 2021, UDC were designated under Section 62A of the Town and Country Planning Act 1990. This was initially due to the number of major application which have been overturned on appeal between April 2018 and March 2020 and in light of their poor housing supply position. As such, under this designation, applications for major developments have the ability to apply for planning permission directly to the Planning Inspectorate. This designation under S62A further exacerbates the need to address severity of the housing supply

shortage within the District which still endures. The Department for Levelling Up, Housing and Communities (DLUHC) wrote again to the Council on 27 July 2022 to confirm that the Council is to continued to be designated and that it must produce a Performance Improvement Action Plan as a priority. This letter can be found at **Appendix H**.

- 5.14. With the tilted balance engaged under paragraph 11d, there are no adverse impacts resulting from the proposals of this application that would **significantly** and **demonstrably** outweigh the public benefits of the scheme, which are set out under paragraph 6.11, therefore, planning permission should be granted accordingly.

### Principle of Sustainable Development

- 5.15. Takeley is identified by UDC as one of the most sustainable, larger settlements within the District. There is good access to facilities and services, which supports the needs for day-to-day living, as well as access to public transport and jobs. It is recognised that in past years there has been housing growth in the area, both promoted and approved by UDC and allowed on appeal. Alongside this new housing, there has been new and expanded community facilities that have been provided, that has been commensurate with the level of growth, particularly with the larger sites. There is also a good offer of employment space, including 4no. light industrial units recently approved (Ref. No. UTT/22/2744/FUL) at the Land known as 7 Acres, Parsonage Road, which is situated to the west of the application Site (see figure 8 below).



Figure 8 - Location of 7 Acres Employment Provision

- 5.16. The 7 Acres proposal also includes the provision of a medical centre and this will be reserved expressly for the Hertfordshire and West Essex Integrated Care Board (ICB) for their use. This will improve the accessibility to local health uses within the village.



- 5.17. The application proposals have been carefully formulated to minimise any potential adverse impacts of developing the Site and to maximise the potential benefits that will be realised. The proposed development would therefore result in a number of significant and substantial public benefits that would support the objective of sustainable development set out in paragraph 11 of the NPPF. These benefits are set out below at paragraph 6.11 and at **Appendix J**.
- 5.18. It is clear that the scheme delivers a number of public benefits. In particular, the scheme carries the benefit of being in a specific location which is sustainable and where it is appropriate to plan for housing. Takeley is identified as one of the largest “Key Rural Settlements” the largest of the settlements below the three main settlements in the district, namely Saffron Walden, Great Dunmow and Stansted Mountfitchet.
- 5.19. The local plan identifies *“Three key settlements are located on main transport networks as well as there being local employment opportunities. In most of the Key Settlements either of the following apply I. Some further limited employment or residential development is proposed; II. Key existing employment sites will be safeguarded. The intention is to protect or strengthen the role of these communities where there is potential to encourage people to live and work locally.”* As well as providing excellent access to jobs locally within Takeley, it is also accessible to Stansted Airport in addition to being in close vicinity to a range of job opportunities.
- 5.20. The public benefits which the proposals will deliver attract significant weight, especially in the context of the lack of 5-year HLS and in particular the substantial demand for affordable housing. The scheme will also provide above policy requirements for public open space, including formal play space as providing a Woodland Management Plan and 1ha extension to Prior’s Woodland. The weight attributed to each benefit is set out in the table at **Appendix J**.

### **Comparison with Previous Appeal Scheme**

- 5.21. As set out above, this Site previously formed part of a dismissed Appeal scheme which was subject to a public inquiry, albeit the proposals before you have been significantly amended. During the inquiry, the Council’s planning witness, Mr Tim Dawes set out in his oral evidence that the area of the Appeal Scheme referred to as the Rural Lane in the east of the Site adjacent to Smiths Green Lane is where the ‘overdevelopment’ is resulting in landscape and visual harm. In his evidence, Mr Dawes did not object to development within Bull Field in its entirety. He accepted the principle of development on that field, save for a row of dwellings closest to Prior’s Wood, although later accepting that no harm would arise in this regard, a view which the Inspector agreed.
- 5.22. The scheme as now put forward has been revised in light of the other comments made by the Inspector in his decision to dismiss the Appeal scheme. A table setting out how the proposals of this application address the Inspector’s comments is set out in **Appendix D**. One of the main changes is the removal of any development in the east of Bull Field and also to increase the depth of the buffer back and provide additional relief on the southern and eastern edge of Prior’s Wood notably improving its prominence from the north and east. The proposed scheme also addresses the



previous concerns by omitting the low density development along the entirety of Smiths Green Lane, and addressing the 'setting' of Prior's Wood, which in turn address the only concerns which Mr Dawes identified in his oral evidence during the Inquiry.

- 5.23. Within his Decision on the Dismissed Appeal, the Inspector affords **limited weight** to the conflict with Policy S7, with reference to it defining land outside of the settlement strategy of the plan (paragraph 82). The Inspector took this view in light of the UDC's lack of a 5 year Housing Land Supply, which remains, and in light of recent Appeal decisions which again, remain relevant. Accordingly, limited weight should be afforded to any breach to Policy S7 in this instance.
- 5.24. The Inspector also noted that moderate weight to the conflict with the last strand of Policy S7, relating to the intrinsic character and beauty of the countryside (paragraph 83). However, as a result of the changes made to the layout of the development within Bull Field, the conflict with the policy has been markedly reduced. Within the proposals of this application, the notable set back and buffer containing no development has now been extended and will be maintained on the eastern boundary to Smiths Green Lane, which allows for the full appreciation of countryside character, alongside the planted fringe of the development proposals which have been sensitively designed to sit in this location.
- 5.25. It should be highlighted that development has recently been approved in the adjacent field known as 7 Acres, under Planning Permission Ref. No. UTT/22/2744/FUL. This application includes 4no. light industrial/ commercial units, one of which is intended to serve as a medical facility, with associated landscaping and parking. The application Site falls within the Countryside as designated under Policy S7 and also within the Countryside Protection Zone (CPZ) as designated under Policy S8.
- 5.26. There has also recently been a Section 62A Application (Ref. No. S62A/22/0000004) approved (dated: 24<sup>th</sup> August 2022) in relation to the Land east of Parsonage Road and south of Hall Road, Stansted, Essex. This application was for a 14.3mw solar photovoltaic farm. Again, this application Site falls within the Countryside as designated under Policy S7 and also within the CPZ as designated under Policy S8. Similarly, a further outline planning permission has been granted for 130 beyond the settlement of Elsenham for 130 homes (Ref. No S62A/22/0007) which is also within the CPZ.
- 5.27. With the above applications in mind, it is clear the protection of land designated under Policies S7 and S8 is not sacrosanct, and that planning permission is granted for appropriate development in these locations.
- 5.28. Further commentary on Policy S8 and the Countryside Protection Zone is set out below in paragraph 5.39.

## Loss of Agricultural Land

- 5.29. Notwithstanding the limited weight afforded to the saved Local Plan policies in light of the circumstances set out above, Policy ENV5 (Protection of Agricultural Land), sets out that development will only be permitted on agricultural land where opportunities have been assessed for accommodating development on previously developed land or within existing development limits.
- 5.30. The agricultural land which the Site falls on is likely to be categorised as Grade 2 (Good) according to the Regional Agricultural Land Classification Map for the Eastern Region (ALC008).
- 5.31. However, as was noted at paragraph 2.9 of the now withdrawn Local Plan, due to the rural nature and history of Uttlesford, there are relatively few previously developed or brownfield sites within the District. The Council accepts that it is invertible that future development will probably have to use such land as the supply of previously developed land within the District is very restrictive. Virtually all agricultural land in the District is classified as Grade 2 or 3a with some areas of Grade 1.
- 5.32. Historically, the largest of these brownfield sites have already been developed, such as Rochford Nursery Site, Stansted (Forest Hall Park), Sugar Beet Factory, Felsted (Flitch Green) along with parts of the former nursely site at what is now Priors Green. Indeed, the majority of sites proposed for allocation in the withdrawn local plan were on land considered Best and Most Versatile Land, with over 80% of agricultural land in Uttlesford considered to be within this category.
- 5.33. With the above in mind, it is clear that future development, including that which provides much needed new housing will be required to be provided on land which has not been developed and may fall within the countryside or upon agricultural parcels due to the lack of brownfield sites in the District. Paragraph 78 of the framework sets out that in rural areas, decisions on housing development should be responsive to local circumstances, in this instance, a lack of brownfield land. Paragraph 78 then goes onto say that proposals should be supported where they reflect local need. It is undisputable that there is a housing need in the area, and the proposals of this application look to address this need.
- 5.34. The proposed development will result in the loss of approximately 5.21ha of agricultural land. This threshold is well below that required for Natural England to be consulted (20ha) as stipulated within the Town and Country Planning (Development Management Procedure) (England) Order 2010, as amended.
- 5.35. The application Site is a field which is contained on three sides and forms awkward shape which is less suitable and accessible for larger machinery in some parts, reducing its efficiency for modern farming methods and would therefore be less desirable for any agricultural use.

- 5.36. In the context of the District and the region as a whole, the agricultural land within the Site forms a very small proportion of land in comparison to the total area of farmed productive land. Within Essex it is estimated to be 2,103km<sup>2</sup> in 2017 which is 59% of the total within the County. This is higher within the District, at between 66.3-80.6% being regarded as productive.
- 5.37. Therefore, the overall loss of agricultural land in this context is not considered to be significant, particularly as the Council have acknowledged, including as part of recent appeals, that it will have to accept development on hitherto unidentified greenfield sites in order to meet its housing targets before a new plan can be adopted. It is therefore considered that the requirements of Policy ENV5 are met in the absence of any alternative sites.
- 5.38. It should also be noted that loss of agricultural land was not identified by UDC as a reason for refusal on the Appeal Scheme, nor was this an issue covered by the Inspector's decision. Accordingly, given that the scheme before you result in a reduced loss of agricultural land in comparison to the Appeal Scheme it is the case that no objection will be sustained by the Council on these grounds.

### Countryside Protection Zone (CPZ)

- 5.39. The Site falls within the CPZ, which is an area of land surrounding Stansted Airport, which is designated under Policy S8 principally to prevent the coalescence between the airport and the surrounding countryside. It was first designated in the 1995 Local Plan. A plan showing the extent of the CPZ is set out at **Appendix K**.
- 5.40. The plan shows that to the west of the airport, in particular the long stay car parks, are immediately bounded by the M11 with land on the opposite site being designated at Green Belt.
- 5.41. Surrounding the airport to the northern, eastern and western sites is the CPZ designation, which ranges in its extent, from between a few hundred meters to approximately 3.5km in depth, albeit that significant portions of the CPZ now benefit from planning permission for various types of development comprising over 30 separate planning permissions from a few houses to larger employment proposals and schemes of over 100 dwellings on the edge of larger settlements. Many of these have been built out (See Plan at **Appendix L**).
- 5.42. UDC Local Plan 2005 Policy S8 addresses the CPZ. The zones' purpose is to maintain a local belt of countryside around the airport that will not be eroded by coalescing development between the airport and the surroundings. The policy states:

*“Policy S8 – The Countryside Protection Zone The area and boundaries of the Countryside Protection Zone around Stansted Airport are defined on the Proposals Map. In the Countryside Protection Zone planning permission will only be granted for development that is required to be there, or is appropriate to a rural area. 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.”*

5.43. This approach was proposed to be carried forward in the withdrawn Local Plan, within an overarching countryside protection policy (Policy SP 10). Supporting text to this policy noted:

*“The priority within this zone is to restrict development which would cause coalescence between the airport and surrounding development. Coalescence is the physical coming together or merging between the airport and existing development in the zone. New building will generally lead to coalescence. The change of use of a building in itself will not lead to coalescence unless there is associated development such as outside storage or car parking. Each case needs to be judged on its merits, where there are only modest levels of additional parking on a tightly well-defined site for example, it may not be considered as leading to coalescence. Development which complies with the Strategic Policy SP10 Protection of the Countryside will only be permitted if it also consistent with this over-riding objective.”*

5.44. A study commissioned by UDC was undertaken by Land Use Consultants Ltd (LUC), in July 2016, which looked more closely at the land within the policy designation area, against for purposes, albeit that these are not tests of the policy itself: (1) To protect the open characteristics of the CPZ; (2) To restrict the spread of development from London Stansted Airport; (3) To protect the rural character of the countryside (including settlements around the airport); and (4) To prevent changes to the rural settlement pattern of the area by restricting coalescence. The Site falls within areas 5 of 10. During the Inquiry the Council confirmed that the document needed to be updated as an evidence base document as it contained a number of errors and mistakes. The extent of the zones also needed to be updated in light of development which had been permitted. It does not have any weight as a form of adopted guidance or similar.

5.45. It should also be noted that it was not the intention of the CPZ policy, nor does it remain so that the Policy was designed to prevent the sustainable extension and growth of rural settlements which lie in proximity of the airport. Clearly the application of the policy has been utilised in this was by the Council in the past.

5.46. The plan at **Appendix L**, whilst not exhaustive, notes in excess of thirty previously approved planning application that have been granted both by the Council and on appeal, for development which ranges from a few dwellings to several hundred. Whilst development within the zone is evidently strictly controlled, very clearly the CPZ policy area is not sacrosanct, with each case needing to be assessed on its individual merits on a case by case basis.

5.47. In the case of the development on the land on the west side of Parsonage Road (Ref. No. UTT/19/0393/OP) it was noted by the Inspector that any harm to the character of the countryside around the airport and CPZ as a whole, would be limited.

- 5.48. The application relating to the Land known as 7 Acres, which encloses the application Site to the northwest (Ref. No. UTT/22/2744/FUL), was found to be a site which was enclosed and did not contribute to the openness of the CPZ and did not increase coalescence between the airport and Takeley given its enclosed nature. Both the Applicant and the Council drew upon the findings of the Inspector, within the Appeal Decision relating to the dismissed Warish Hall Farm development (See table **Appendix D**) and that has recently been approved following Planning Committee in April 2023 which was largely unchanged from the Appeal scheme.
- 5.49. The Site proposals now put forward, similarly mirror the conclusions drawn as part of the 7 Acres proposals, in that having removed entirely built development along Smiths Green Lane, it is well enclosed to the north by Prior's Wood, to the west by residential development in the Roseacres area, as well as the Weston Group Business Centre and the 7 Acres Site. To the south of the Site, the application is enclosed by Roseacres School and further residential development which influences this part of the site. The eastern edge of the Site fronts onto Smiths Green Lane, albeit that the built fringe of the development area is set back significantly and thus retains the open character along Smiths Green Lane with intervening hedge planting and the proposed hay meadow.
- 5.50. An application (Ref. No. S62A/22/0000004) has also recently been granted under Section 62A for a solar farm to the north of the Site. The proposals of this application involve development within the CPZ.



Figure 9 - Map of Surrounding Development

- 5.51. The Site is closer to the airport in comparison to the approved developments indicated in Figure 9, therefore, it is considered that the Site would be less impactful in terms of the coalescence between the airport and the surrounding settlements in comparison to those development set out in Figure 9. The Site is also separated from the airport by the A120, which further serves to enforce a visual the separation between the airport and the application Site.

- 5.52. With the exception of 7 Acres, which enclosed on all four sides, the other approved developments in the vicinity to the application Site are located in areas which are much more open in nature, in comparison to the application Site which is enclosed on three sides and carefully considered and appropriately mitigated on the other. Accordingly, the proposals would be less impactful on the openness of the CPZ in comparison to a number of the proposals recently granted planning permission in the vicinity.
- 5.53. Within the Inspector's Decision relating to the dismissed Warish Hall Farm Scheme, the Inspector set out the following at paragraph 23:
- "I observed, notwithstanding the enclosure that is created by the boundary planting, that this part of the appeal site forms a strong demarcation between the countryside and the existing urban development to the south. As such, I consider this part of the appeal site shares its affinity with the countryside with which it forms an integral and functional part."*
- 5.54. Accordingly, these comments have been further considered by the applicant's consultant team as part of the proposals of this application. The proposals have removed any development on part of Bull Field to the east of Prior's Wood and within the Land known as Maggots. This amendment has served to retain the agrarian character here, so as to maintains a 'strong demarcation' of the transition between the countryside and the settlement edge which is to be filtered and screened by reinstatement of historic hedgerow.
- 5.55. At paragraph 84 of the Inspector's Decision on the dismissed Appeal, he stated that although paragraph 170 of the framework advises decisions to recognise the intrinsic character and beauty of the countryside, the 'protection' afforded to the CPZ in Policy S8 is not the same as the Framework's 'recognition'.
- 5.56. The Inspector then went on to say (at paragraph 85), that given the policy is not fully consistent with the NPPF, and the pressing need for housing, the conflict with policy S8 should be given moderate weight. In subsequent application decisions, notably S62A/22/0004 & S62A/22/0007 development has been granted despite the conflict with Policy S8. The Council has also separately granted the 7 Acres proposals on the basis of the limited weight to Policy S8. As UDC are still unable to demonstrate a 5 YHLS, so the pressing need for housing remains particularly affordable housing which for which delivery has correspondingly been sparse in recent years. As such, it is the Applicant's view that limited weight should also be afforded to the conflict with Policy S8 in this instance.
- 5.57. Notwithstanding this, the judgment of conflict with Policy S8 needs to be considered based on site proposals and specific circumstances. The notable revisions made to the layout of the development on Bull Field to remove development here has sought to take onboard comments from the Inspector's decision, which seek to reduce impact on the CPZ, by reducing the area of built form, which in turn reduces the perception of any impact on the openness of the Site which remains a very small part of a very large area and directly influenced by the existing settlement.

- 5.58. Within their Decision, the Inspector set out at paragraph 32 that, “*the open countryside between the airport and the A120, along with Priors Wood would prevent the proposal resulting in coalescence between the airport and existing development.*”. As such, the only part of Policy S8 which the proposals would be in conflict with is in regard to impact on openness. For the reasons set out above, the open character has been retained by way of removing any development in the east of Bull Field and within Maggots.
- 5.59. Given the characteristics of the Site, its position relative to the airport, combined with the Site’s constraints and surroundings, whilst also taking into account the mitigation to now to maintain a ‘strong demarcation’ of the transition between the countryside and the settlement, the impact on the CPZ is considered minimal.
- 5.60. Policy S8 requires that, within the CPZ, planning permission will only be granted for development that is required to be there, or is appropriate to a rural area. As set out above, the lack of allocated sites, and previously developed/brownfield land, means that housing development is required to take place outside of the development limits in order to meet housing needs. For such reasons, the Council granted planning permission on land east of Parsonage Road in January 2022 (Ref.No UTT/21/2488/OP).
- 5.61. Policy S8 imposes a strict control of development, in particular development will not meet the requirements of S8 if the new development would promote coalescence between the airport and the exiting development in the surrounding countryside. As set out above, the application Site falls further away from the airport and in a location more disconnected with the airport (in particular due to the A120) in comparison to a number of recently approved schemes, so it is deemed that development of the Site would not cause coalescence between the airport and development in the surrounding countryside. This was also the position as part of the Appeal at paragraph 32.
- 5.62. Furthermore, Policy S8 does not permit proposals that would adversely affect the open characteristics of the zone. As set out above the proposals seek to retain a sense of openness and demarcation between the settlement and countryside, in accordance with the provisions of Policy S8.
- 5.63. It is contended that the approved developments set out in Figure 9 have a notably greater impact in relation to the openness of the CPZ and any perceived coalescence, when compare with the proposals of this application. Given the overriding need for housing, the lack of allocated sites and the shortcomings in the failed local plan attempts, there remains an overriding and pressing requirement to provide housing in sites beyond the settlement boundary and within close proximity to sustainable settlement such as Takeley. As such this application should be deemed acceptable in regard to its accordance with and limited conflict with Policy S8.
- 5.64. This view is further informed by a detailed Landscape and Visual Impact Assessment (LVIA) undertaken by LDA Design in support of the application, this is detailed in the following section.



## Landscape and Visual Impact

- 5.65. Weston Homes commissioned LDA Design to provide landscape consultancy advice, including an assessment of the likely visual impacts of the development by way of a detailed Landscape and Visual Impact Assessment (LVIA). Whilst the assessment looks at the CPZ designation in some detail, it provides a much wider and more in-depth study, looking at the potential visibility of the Site and the impact on a series of 'receptors' i.e. those people/properties likely to experience a change, in the event that the application were to be approved. The study has been carried out and accords fully with the Landscape Institute Guidelines for LVIA 3rd Edition.
- 5.66. The LVIA identifies the Zone of Visual Influence (ZVI) from which the proposals might be seen, as determined by landform and topographical features, vegetation etc. The impact on views from surrounding dwellings and those travelling on roads and footpaths surrounding the Site, has been considered from a variety of representative viewpoints. The LVIA assesses the effects during the period following completion, when construction is complete but before mitigation planting is fully mature.
- 5.67. Generally, the views most affected are well confined to the immediate surrounds with no long views into the Site that will be adversely affected in the long-term. The LVIA concludes that on balance the Site as a whole has a medium-low sensitivity. Changes would occur in small parts of the LCA B10 Broxted Farmland Plateau Landscape Character Area, therefore, the extent would be localised and result in low magnitude effect at year 1 on the host Landscape Character Area. As the proposed planting mitigation matures, this will enhance the positive aspects of the Landscape Character Area, reducing the scale of effect further and the permanent magnitude to Negligible, which the LVIA assesses to be Minimal effect and Neutral.
- 5.68. In order for residential development to occur on a greenfield Site, it is to be expected that there would be large scale effects on the character of the majority of the Site itself, that is changing from landscape to townscape. These changes would be permanent by limited in extent.
- 5.69. In terms of value, the LVIA identifies that the area has a number of positive features but also has significant detractors including the A120 and Stansted Airport. The Landscape Character Area is assessed as having Community Value. Combining this value with the medium-high susceptibility given medium sensitivity to the Broxted Farmland Plateau area as a whole.
- 5.70. Within the wider landscape context, the Development would be well contained to the northwest and south, by planting, woodland and existing and emerging development. The eastern boundary is currently open and looks onto the eastern section of Bull Field and beyond to Smiths Green Lane. The proposed planting mitigation will contain the proposals and retain an open green edge alongside Smiths Green Lane, similar to the baseline context. The character of the east area of Bull Field would be partially retained.



- 5.71. The high quality, innovative scheme will enhance the local landscape and views through and from within the Site. The design and layout has been carefully considered so as to ensure it is compatible with the scale, form, layout, appearance and materials of the surrounding settlement areas and prevailing character. As set out above, the proposed layout has also considered the comments made by the Inspector in his Decision dismissing the Warish Hall Farm Scheme. In doing so, the proposals of this application seek to maintain a clear demarcation between the settlement and rural countryside.
- 5.72. Notably, there is no development situation along Smiths Green Lane, in order to retain and enhance the environmental features and minimises environmental impact on neighbouring properties and ensure that the views from public locations such as along Smiths Green Lane, still contain agrarian open character. Due to the development being set back by around 150m, in response to the Inspector's comments at paragraph 23 of the Appeal Decision relating to the dismissed Warish Hall Farm Scheme, the proposals will make no contribution to any perceived coalescence of the settlements of Takeley and Little Canfield.
- 5.73. In regard to openness, due to the development being set back from Smiths Green Lane and any neighbouring property, the impact on openness is minimised and the east half of Bull Field remain open.
- 5.74. The extent of residual adverse effects has therefore been reduced through careful planning and consideration of each receptor potentially affected. As such the proposals comply with relevant Policies including GEN2, ENV3, ENV8, S7 and S8 and the provisions of paragraph 130 of the framework.

## Heritage

- 5.75. The application is accompanied by a Built Heritage Assessment (BHA) by RPS and an Archaeological Desk Based Assessment (DBA) and Written Scheme of Investigation (WSI) has also been produced by RSP, relating to the below ground heritage assets.

### Built Heritage

- 5.76. The BHA considers a number of designated and non-designated heritage assets in the vicinity of the Site. Other buildings within Takeley, including the Grade I Listed Church of the Holy Trinity have been considered not to have any functional and historical relationship to the Site.
- 5.77. The BHA has identified 3 heritage assets which are likely to be affected by the proposals, namely; Hollow Elm Cottage (Grade II), Goar Lodge (Grade II) and Beech Cottage (Grade II). In all cases, the BHA identified there to be a low level of less than substantial harm to these heritage assets. This is a position agreed by Place Services Heritage Team, during pre-application discussions. A copy of the correspondence confirming their position can be found at **Appendix M**.

- 5.78. The designated scheduled monument, Warish Hall moated site and remains of Takeley Priory, is assessed in detail in section 5 of the separate archaeological desk based assessment produced by RPS that accompanies the application. This has found that that the revised design proposals respond to the Inspector's findings. Removing the proposed development in the eastern part of the Site has removed any impact on the significance of the Scheduled Monument such that there will be no harm to its significance.
- 5.79. Smiths Green Lane is classified by UDC as a 'Protected Lane' (non-designated heritage asset) which has a degree of historic significance but does not warrant statutory listing. Smiths Green Lane runs along the eastern boundary of the Site, albeit that development is set back by circa. 150m from this boundary.
- 5.80. Impact on the protected lane was considered within the Inspector's Decision relating to the Dismissed Appeal.
- 5.81. Paragraph 202 of the NPPF directs that:
- “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*
- 5.82. Guidance on the term public benefits is set out in the PPG at paragraph 020 (Reference ID: 18a-020-20190723) and is defined as “anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework (paragraph 8). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits...”
- 5.83. As set out at paragraph 6.11, the proposals include a number of public benefits which should attract significant weight when undertaking the tilted balance.
- 5.84. The BHA goes on to assess the impact of the proposed development in terms of the potential harm to the significance of the respective heritage asset, including taking into consideration the impact of the proposed development in accordance with the statutory duty and as set out in the NPPF. This assessment takes into account the final design and layout which has sought, through its development and evolution, in light of the comments set out in the Inspector's decision on the Warish Hall Farm Scheme, to address, minimise and where possible remove the potential for harm having regard to the suggested design, layout and orientation of the building, including landscaping proposals and overall resultant character. This process is described within the BHA in more detail.

- 5.85. Following pre-application discussions with Essex County Council (ECC) Place Services (providing conservation advice to UDC), comments from the Inspector on the Warish Hall Farm Appeal Decision, and taking into account the baseline heritage assessment, informed by site visits, it has been determined and agreed that the proposals of this application result in a low level of less than substantial harm to the setting and significance to adjacent heritage assets. The greatest potential harm for hard arises as a result of the development to the south of the Site adjacent to Goar Lodge and Beech Cottage.
- 5.86. Pre-application discussions have also established that the proposals do not cause 'substantial harm' that would, in accordance with paragraph 195 of the NPPF, warrant outright refusal of such an application. Accordingly, the impact of the proposed development is considered to result in 'less than substantial harm' to the significance of the heritage assets from the proposed development.
- 5.87. Paragraph 196 of the NPPF directs that:
- “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage, this harm should be weighed against the public benefits of the proposal...”*
- 5.88. Guidance on the term public benefits is set out in the PPG at paragraph 020 (Reference ID: 18a-020- 20190723) and “could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework (paragraph 8). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits...”
- 5.89. The proposal is considered to result in a number of significant, substantial and moderate public benefits that when considered overall carry weight in favour of granting planning permission for the proposed development. These public benefits are set at paragraph 6.11 below. The benefits are considered to provide overriding justification that means planning permission should be granted accordingly. The proposals are therefore also considered to accord with the provisions of Policy ENV2 & ENV9 and paragraph 194, 199, 202 and 203.

### **Below Ground Archaeology**

- 5.90. The potential archaeological interest has been considered and presented in a Desk Based Assessment which has been informed by a geophysical survey. The presence of the moated site opposite Maggots cottage has been identified as an area for proposed archaeological investigation and a Written Scheme of Investigate has been prepared and submitted setting out the programme of works.

## Landscaping and Public Open Space

- 5.91. The scheme proposes an effective area of public open space as a central feature of the development which positively addresses and is well located in relation to the PROW's which run through the north and south of the Site. Analysis and consideration of existing green Infrastructure within the locality, for which there is an identified shortage, and for play provision within the village has been undertaken in order to identify the type of provision most likely to benefit new and existing residents, as part of these proposals.
- 5.92. UDCs policy for open space and play provision is not definitive in seeking specific quantum of space to be provided given that the policies are dated. A figure of 0.1ha per 1,000 population has been benchmarked as being the requirement for play provision across the District. National guidance, for example within Fields in Trust (FiT), has therefore been referred to in calculating play space provision which includes an equipped Local Area of Play (LAP). This is indicated on the plans and incorporates formal play space provision.
- 5.93. The quantum of the space provided exceeds that sought by the Council and provides interest and features that will provide a major enhancement to local amenity. The proposals of this level of enhance accessible public open space is deemed in compliance with UDC Policy ENV3 and the provisions of paragraph 98 and 174 of the framework. Consideration has also been given to the Accessible Homes and Place Spaces SPD (2005).

## Ecology and Arboricultural Matters

- 5.94. The application proposes development upon Land that is currently an agricultural field, which, due to the nature of its existing agricultural use, has been regularly cropped, ploughed and sprayed with chemical pesticides, fertilisers and the like up to the field margins. For the past three years the Site has been used to grow hay.
- 5.95. Various surveys have been undertaken in accordance with GEN7 to assess the biodiversity baseline condition of the site and identify the presence of any protected species. The findings of these surveys are set out within the Ecological Assessment and Briefing Note submitted with this application.
- 5.96. The field margins partly within but mostly surrounding the Site include grassland, hedgerows and ditches, thus offers the potential for a range of habitats to support a more biodiverse range of plants and wildlife, including protected species.
- 5.97. Prior's Wood ASNW also falls within the Site boundary and is proposed to be extended and enhanced as part of the proposals and which has also been subject to survey. Detailed discussions have taken place between the ecologist team, the arboriculturist and other discipline to ensure that the proposals do not harm or cause deterioration to the woodland but demonstrably improve and enhance the long-term condition through better management and enlargement as described above.

5.98. From the survey data carried out this, this has identified the presence of bats (Common Pipistrelle and Soprano Pipistrelle – the most common species of UK bat), a low population of common lizard and grass snakes and a range of bird activity but an absence of ground nesting birds. Test for Great Crested Newts and survey for Badgers have been returned negative. Whilst further rounds of survey activity are planned over the summer period (Weston Homes acquired the Site at the start of Winter 2020), the range of survey information already available has sought to accurately characterise the potential impact on protected and priority species. The detailed site layout has therefore been drawn to provide appropriate mitigation measures to include but not limited to:

- Provision of a buffer of at least 15m to the ASNW and planted margin to offset development in close proximity to Prior's Wood in accordance with guidance set out with the PPG.
- Where the access passes through the buffer the detailed survey and investigations have developed a sound detail and methodology to establish no trees will be adversely affected. In part this is aided by the provision of a drainage ditch to the south of the woodland that will be retained and thus enable the roadway to be built up.
- Introducing a long term maintenance commitment to the woodland to assist in improvement to its biodiversity value including by introducing forest glades to assist in regenerating the understorey planting, provided fencing to restrict access to deer, managing routes through for public access and network of education and public information boards;
- Extension of the woodland by approximately 1ha in area;
- Retention of all significant trees and hedgerows around the perimeter and within the site.
- The creation of an extensive and generous provision of open space which provide for the establishment of a coherent ecological network on site;
- A sensitive lighting scheme to consider the impact on the night-time wildlife landscape, in particular minimising the impact on bats;
- Provision of bird and bat boxes as well as hibernacula and 'hedgehog gateways'.

5.99. These measures seek to protect areas of importance of nature conservation concern in accordance with Policies ENV7 and ENV8, in particular there are a number of enhancements proposed in relation to Prior's Wood ASNW, including an extension to the existing area of woodland and a management scheme detailed within the submission documents.

5.100. As a result of the proposed Site layout and measures adopted it has been calculated that the proposals will increase the net biodiversity benefit of the Site overall. It is contended that as a result of the measures, the quality and quantity of the habitat will have increased following the development of the Site. This will lead to a wide range of higher quality provision, providing net gains for biodiversity. In accordance with the latest Defra biodiversity metric calculation, this will increase by in excess of 10% by way of onsite measures. The proposals are this considered to accord with relevant guidance set out within the NPPF (paragraph 174 & 180).

## Access, Highways and Parking

- 5.101. Access to the Site is taken from Parsonage Road to the east, serving the existing Weston Group Business Centre and the proposed commercial/employment use at the Land known as 7 Acres. The access will pass through the 7 Acres Site and through a gap to the south of Prior's Wood, to Bull Field. A 6.5 metre wide carriageway runs through the business centre, providing access to the commercial units before narrowing to 5.5 metres as it continues into the residential development. The narrowing of the carriageway is intended to signal to drivers that they are entering a residential area and encourage them to slow down. This then becomes the primary residential access road with footpaths on one side. It joins a network of six-metre-wide shared surface streets which provide access to the majority of dwellings. Key junctions are also formed as raised tables with varied surface treatment to help control vehicle speed. No through route between Parsonage Road and Smiths Green Lane is provided for vehicles.
- 5.102. The internal road network has been designed to accommodate the largest vehicles likely to access the Site on a regular basis. Swept path analysis, included within the Transport Assessment demonstrates that both a refuse vehicle and fire tender can access all parts of the Site.
- 5.103. In some locations, bin collection points are required to prevent refuse operatives being required to walk further than the maximum permitted distance. These are marked on the swept path included and are located within both the residents' and refuse operatives' maximum recommended walking distances.
- 5.104. Segregated cycle and footways form an important feature of the proposals and are introduced as part of the improvements to the existing PROWs running through the Site, which provides access to Roseacres and Parsonage Road to the west and Priors Green to the east. These active forms of travel promote a healthier lifestyle, in accordance with the provisions of paragraph 92 and 112 of the framework.
- 5.105. Parsonage Road is provided with footways on either side of the carriageway between the Weston Group Business Centre and the Four Ashes Junction to the south. This provides access to local shops and the wider footway network serving Takeley. Smith's Green Lane to the east of the Site is not equipped with footways, it is however possible to access footpaths adjacent to Smith's Green Lane, which connects into the surrounding settlements. The restricted byway which runs to the north east of the Site, provides a link to the recent Little Canfield/ Priors Green development, including Priors Green School, local bus stops and the neighbourhood centre. The County Council has previously requested this route to be surface and lit and which is subject to a separate application.
- 5.106. Parsonage Road and Smiths Green lane are generally suitable for cyclists, both being subject to 30mph speed limits and primarily serving local traffic. More widely, the Flitch Way follows the path of a disused railway to the south of Dunmow Road. It forms part of National Cycle Route 16 and links Takeley to Great Dunmow and Braintree and serves the intersection with National Route 50. Smiths Green Lane forms part of the on-road route linked with the National Cycle Network that runs north of Bambers Green, Molehill Green and network of smaller villages within Uttlesford.

- 5.107. Takeley is well served by bus routes which are accessible from bus stops on Parsonage Road, Dunmow Road and within the Little Canfield development. Stansted Airport provides a major public transport interchange catering for rail, national coach, regional coach and local bus services and is just a six-minute bus journey from the stops on Parsonage Road. From the train station at the airport, there are approximately 10 departures per hour, with Services to London, Birmingham and Norwich.
- 5.108. Bishop's Stortford station is located eight kilometres west of the application Site, while this is beyond reasonable walking and cycling distances for functional journeys, it is accessible within 30 minutes via bus from the bus stop near the Four Ashes Junction.
- 5.109. The Transport Assessment (TA) accompanying this application has sourced traffic data from a number of surveys and past applications in order to understand the operation of the network prior to establishing the impact from the proposed development. Key junctions as identified in discussions with ECC, have been assessed, which include the Four Ashes crossroads and the Parsonage Road/Hall Road roundabout close to Stansted Airport. The TA has taken into account a number of additional consented schemes within the area, along with background traffic growth that has been factored into calculations and modelling.
- 5.110. Overall, it has been calculated that the proposed development has the potential to generate a total of 48 two-way vehicle movements in the AM peak period and 47 two-way vehicle movements in the PM peak period. The daily equivalent is the generation of 436 two-way vehicle movements. Vehicular activity of this magnitude equates to less than one additional vehicles per minute in the peak travel periods.
- 5.111. Following the grant of planning permission for the Land West of Parsonage Road (Ref. No. UTT/19/0393/OP) this proposed and secured that a system to upgrade the function of the traffic lights known as Microprocessor Optimised Signal Actuation (MOVA) be installed at the Four Ashes Crossroads. This features a detection system that takes into account the actual traffic using the junction and seeks to optimise the phasing by adjusting the changes of lights to provide increase capacity through the junction to account for greater flows from a certain direction, as opposed to running on a repeating timed cycle. Micro-simulation modelling of the system suggests that significant reductions in delay and queues are likely to be achieved. Given that the junction is predicted to operate within typically accepted capacity thresholds, this will improve trip times once MOVA is installed and is likely to improve junction performance, typically by 15-20%. Thus, there is sufficient capacity remaining within the Four Ashes junction following the MOVA upgrade to accommodate any growth from the Site.
- 5.112. A total of 230 residential parking spaces are provided, which equates to an overall ratio of approximately 2.4 spaces per dwelling. In accordance with ECC/UDC guidance, larger dwellings are provided with at least two spaces although within Uttlesford, these are expressed as minimum standards. Suitable provision is made for visitor parking (24 spaces) in accordance with the Essex Parking Standards (25%).



- 5.113. The proposed level of parking will meet the required provision set out in the Essex Parking Standards Design and Good Practice (September 2009) and will also meet the standards for dimensions of parking spaces which are also set out in the Essex Parking Standards Design and Good Practice Document.
- 5.114. All of the residential parking for each house will be fitted with an electric vehicle charging point and those properties without garages will be provided with secure cycle parking storage.
- 5.115. Accordingly, it is considered that the proposal complies with relevant up to date policy requirements as set out within the NPPF, the impacts of which would not be severe. The requirement of UDC Policies GEN1, GEN6 and GEN8 and paragraph 111 of the framework are therefore satisfied.

### Housing Mix and Affordable Housing

- 5.116. Policy H9 seeks to achieve the provision of 40% affordable housing of the total number of dwellings. This is negotiated on a site-by-site basis, with regard to the most up to date Housing Needs Survey, market and site considerations.
- 5.117. As set out above, there is a pressing need for affordable housing as evidence on the UDCs waiting list, which as of 25<sup>th</sup> April 2023 stood at 1299 people including nearly 420 people expressing an interest in either the Takeley or Little Canfield Area in particular. In addition, a separate list is maintained for those wish to purchase a shared ownership property for those who cannot afford to purchase at the market rate, a problem exacerbated by growing un-affordability.
- 5.118. In total 98no. dwellings are proposed, of which 40% are proposed as affordable housing units (39no. units) as a fully policy compliant provision. The quantum and size mix of the proposed units is shown in Figure 10 below.

	Private	Affordable Housing Tenure		TOTAL
		Affordable Rent	Shared Ownership	
1 Bed	0	7	2	9
2 Bed	11	11	6	28
3 Bed	25	7	4	36
4 Bed	12	2	0	14
5 Bed	9	0	0	9
<b>TOTAL</b>	<b>57</b>	<b>27</b>	<b>12</b>	<b>96</b>

Figure 10 - Proposed Housing Mix

- 5.119. The proposed mix set out in the 2017 SHMA and the preferred mix, as put forward by UDC as part of previous pre-application discussions relating the Warish Hall Appeal Scheme, have been considered within the proposals of this application. The affordable housing need seeks a greater provision for smaller units, which the 2017 SHMA indicates there is most demand for.

5.120. The proposed provision closely aligns with the preferred SHMA affordable housing mix and that as stipulated by UDC during the pre-application discussions for the Warish Hall Appeal Scheme. Figure 11 below sets out a comparison between the required need and requested mix with the proposed mix.

	Affordable Mix requested by UDC	Current Affordable Need (Braintree & Uttlesford SHMA 2017)	Proposed Affordable Mix
1 Bed	18.4%	13.5%	23%
2 Bed	55.3%	44.1%	44%
3 Bed	25%	34.2%	28%
4+ Bed	1.3%	8.1%	5%

Figure 11 - Comparison between Proposed Mix and the request mix and SHMA identified need

5.121. In terms of the overall mix of market dwellings there is similarly a range of housing types and sizes to cater for first time buyers to family dwellings. This includes apartments, flats over garages, terraces, semi-detached and detached dwellings. It is therefore considered that there is a sufficient mix and provision of homes that would accord with relevant policies, including the requirements of Policy H9 and H10 and paragraph 119 of the framework.

### Design, Appearance and Layout

5.122. Weston Homes have engaged with UDC Officers in pre-application consultation and also liaised with the Council’s Urban Design Officers in order to establish a layout and design which will be best suited for the Site. The scheme proposes to bring forward a contemporary development with a bespoke range of designed homes based on a robust palette of materials which also draws upon various characteristics and materials found in surrounding development in the Takeley and Little Canfield Area.

5.123. Due consideration has been afforded to the Essex Design Guide, and the principles set out in this document have been applied throughout the proposals, in order to ensure the highest level of design which can be achieved is brought forward on the Application Site. Accordingly, the provisions of Policy GEN2 and paragraph 124 and 126 of the framework are met by the proposals of this Application. Consideration has also been given to the Accessible Homes and Place Spaces SPD (2006), the Urban Supplement to the Essex Design Guide (2007) and the Essex Design Guide.

5.124. Further details on the design and layout of the development is provided within the Design and Access Statement.

## Residential Amenity

- 5.125. The layout, orientation and scale of the proposed development has been carefully considered in order to mitigate potential adverse impacts on the amenity of existing and prospective residents.
- 5.126. Where dwellings are located close to existing development, an appropriate separation distance is allowed for, in order to mitigate potential impacts on both the existing and proposed residential amenity. As such, new dwellings are proposed to be set back by at least 25m from existing or proposed properties and at least 15m from rear boundaries. In cases where dwellings are close, the orientation of the buildings is 30 degrees or more to another dwelling so as to avoid direct facing windows. Other mitigation measures such as the scale of the proposed dwellings, the positioning of habitable rooms and the retention of boundary planting have also been proposed to avoid any detrimental privacy issues.
- 5.127. In areas where proposed dwellings are in close proximity to existing neighbouring development, the layout and orientation of these dwellings has been carefully considered to mitigate any detrimental impacts, as identified in UDC Policy GEN2. The proposed dwellings have been orientated at an angle greater than 30 degrees to the existing properties and so any impact which these proposed dwellings will have on the existing development will be minimised.
- 5.128. The proposals have therefore been designed in a way which avoids adverse impact on residential amenity in accordance with the provisions of UDC Policy GEN2.
- 5.129. The proposals include a level of lighting which is the minimum necessary to achieve its purpose and glare and light spillage is minimised in accordance with UDC Policy GEN5.
- 5.130. In regard to the construction process, measures will be implemented to ensure that there will be minimal disturbance to occupiers of surrounding properties in regard to noise, vibrations, smell, dust, light etc. which can be set out within a Construction Environment Management Plan, secured via condition. With the above in mind, the proposals are in accordance with UDC Policy GEN4.

## Flood Risk and Drainage

- 5.131. The Site falls within flood zone 1 (FZ1), an area at lowest risk of flooding. A Flood Risk Assessment (FRA) and Sustainable Urban Drainage Systems (SuDS) Report has been prepared by specialist consultants, EAS.
- 5.132. To inform their assessment and drainage design, a number of infiltration tests were carried out across the Site which provided good results, confirming that infiltration would be a suitable means of draining the new development.

- 5.133. At an early stage in the design of the proposals for the Warish Hall Farm Appeal Scheme, advice was sought from MAG (Manchester Airport Group) who advised the avoidance of standing water in the SuDS proposals, that would likely attract birds in order to safeguard the operational effectiveness of the airport. This was also acknowledged by ECC in pre-application correspondence, as noted in the FRA. The principle established have been carried forward with this application. A separate Bird Hazard Mitigation Plan has been provided in support of this Application.
- 5.134. As areas of SuDS are not generally adopted by local authorities or statutory undertakers, the proposed SuDS features will be subject to maintenance arrangements that have been outlined within the FRA. Private arrangements to facilitate the ongoing management will be put in place.
- 5.135. Accordingly, the drainage proposals are considered to comply with the requirements of the ECC SuDS and CIRIA Guidance and requirements of Policy GEN3 and paragraph 152 and 159 of the framework.

## Contamination

- 5.136. In accordance with the requirements of Policy ENV14, A Phase 1 Desk Study and Preliminary Risk Assessment have been undertaken in relation to the Site which has been submitted. A report has been produced in relation to the Site, which summarises the findings of the desk study with respect to the historic use of the Site.
- 5.137. The report concludes that the risk of potential contamination at the Site is very low, however, it is highlighted that a number of geo-environmental hazards maybe present and it is therefore recommended within the report that a geotechnical investigation is to be undertaken, including additional borehole analysis and the installation and monitoring of gas and ground water monitoring standpipes as may be considered.
- 5.138. Details from these investigation as well as the mitigation measures to be carried out can be agreed via the imposition of a suitable planning condition. Given the previous use of the Site and location away from sensitive land uses, they are not likely to result in significant level of exceedances that cannot be addressed by condition.
- 5.139. With he above in mind, the proposals are considered to be in compliance with the provisions of UDC Policy ENV14 and paragraph 184 of the framework.

## Noise

- 5.140. Despite falling within the 12km Aerodrome safeguarding zone associated with Stansted Airport, the location of the Site is well outside of the main noise contours associated with the airport for both day-time and night-time noise. The general noise environment at the Site is associated with vehicular road traffic, in particular from the A120, Dunmow Road (B1256) and Parsonage Road in the local vicinity.
- 5.141. Accordingly, noise surveys at a variety of locations at the Site have been carried out by Stansted Environmental Services in order to ascertain the ambient and maximum noise levels experience across the Site in accordance with BS8233:2014 (Sound Insulation and Noise Reduction for Buildings – Code of Practice).

- 5.142. An unmanned environmental noise survey was undertaken at the Site. The unattended measurements were taken over 1-minute periods between 16.09 on 6<sup>th</sup> April 2021 and 23.55 on 10<sup>h</sup> April 2021. Monitoring was conducted over 5 days to determine prevailing ambient and maximum noise levels affecting the development. The measurement position was approximately 1.5m above ground level and under free-field conditions.
- 5.143. The recommended minimum sound reduction performance requirement for façade elevations is set out in Table 8 of the Noise Assessment submitted in support of this application. The assumed sound reduction performance for the non-glazed elements is set out in Table 9 of the Noise Assessment.
- 5.144. It is necessary to achieve suitable internal ambient noise levels to meet BS8233:2014 recommendations.
- 5.145. A minimum of 25dB Rw+Ctr noise reduction is required for all glazed elements in habitable rooms at the premises. Example specification with minimum sound reduction index figures are provided for the new glazing proposals.
- 5.146. The performance is specified for the whole window unit, including the frame and other design features such as the inclusion of trickle vents.
- 5.147. With the implementation of the controls stated above, the required internal noise levels can be achieved as referred to in BS8233:2014, so noise should not be a concern for the development of the Site. It is therefore considered that the proposals satisfy the requirements of the relevant policies, including UDC Policies GEN4, ENV10 and ENV11.

## Air Quality

- 5.148. An Air Quality Assessment has been produced by Aether in support of this application. It should be noted that no concerns were raised in relation to air quality during the application and appeal process for the Warish Hall Farm Scheme (UDC Ref. No. UTT/21/1987/FUL). Similarly, it is expected that this would also be the case for the proposals of this application.
- 5.149. Within the local area, the level of air quality is generally good. There are elevated areas of pollution within the District however, and they are primarily due to traffic levels. This includes a zone immediately adjacent to the A120 to the north which has previously been identified by UDC to be within a poor air quality zone, although this is not an Air Quality Monitoring Area (AQMA) at the Hockerill crossroads within Bishop's Stortford and that falls within the jurisdiction of East Herts District Council.
- 5.150. Within the District, there are a series of sites where diffusion monitoring is carried out by UDC, the closest location of which is close to the Four Ashes junction. This data has been used and modelled in accordance with published methodology and specialist software, taking into account a range of data and background information.



- 5.151. This modelling has then been used to determine the impact of the proposed development on local air quality, both in terms of human health and due to the proximity of Prior's Wood. The data has been calculated at a range of receptor locations around the Site for both the current levels of pollution and post development for oxides of nitrogen (NO<sub>x</sub>), including nitrogen dioxide (NO<sub>2</sub>) and particulate matter (PM<sub>10</sub>/ PM<sub>2.5</sub>). The data takes into account other developments in the locality, notably the committed development, which has also been assessed in terms of its traffic impact.
- 5.152. Based on the evidence it is estimated that there will be no exceedance of either short term objectives for NO<sub>2</sub> or PM<sub>10</sub>. The 'with development' scenario predicts that the development would cause NO<sub>2</sub> or PM<sub>10</sub> concentrations to increase by less than 0.1 µg/m<sup>3</sup>, at the development and nearby residential receptors. Therefore, no mitigation is required as the air quality objectives are predicted to be met and only a negligible increase in pollutant concentrations is predicted.
- 5.153. Provision will also be made for electric vehicle charge points to facilitate the increasing demand for this infrastructure as the population move to this more sustainable form of private transport. The details of the electric charge point provision can be secured via planning condition.

### Airport Safeguarding

- 5.154. Due to the proximity of the Site to London Stansted Airport it falls within the 12km safeguarding zone as a consequence of which the airport operator, Stansted Airport Limited (STAL) on behalf of owner Manchester Airport Group (MAG) are consulted.
- 5.155. The safeguarding requirements set out a range of factors to consider at the design stage for the construction and operational phase of the development. This can include height of development and construction equipment to be specified e.g. use of cranes; lighting (to prevent upward light spill); avoiding glint and glare from materials and measures to prevent bird flocking so far as possible within the layout.
- 5.156. The detailed layout of the drainage has also been carefully considered to avoid measures which will lead to safeguarding concerns. For example, standing water that might attract certain species of gulls and geese has been excluded as a potential SuDS feature. Similarly, the detailed planting species of trees and hedgerows proposed avoid any variety of berry-bearing planting that will thus prevent attraction to species of flocking birds. These details could be secured by planning condition.
- 5.157. A Bird Hazard Management Plan has been prepared by Ecology Solutions which accompanies the application. This details ecological safeguarding measures and provides the framework for a manageable plan to be subject to the imposition of a planning condition and that will thus be enforceable throughout both the construction and long-term operational phase of the development.

## Sustainable Design and Construction

- 5.158. A Sustainability Statement has been submitted in support of this application which sets out the sustainability merits of the scheme, with reference to the requirements set out in UDCs Interim Climate Change Planning Policy (2021).
- 5.159. Whilst it is not a formal SPD, the policy document pulls together a variety of suggested environmental mitigation measures across a wide spectrum of environmental and construction related best-practices. The document sets out 14 Interim Policies, each of which are addressed in the Sustainability Statement.
- 5.160. Notably the development proposes to deliver a sustainable community which offers much needed homes within the area, with associated public open space.
- 5.161. As well as the recreational opportunities which the open space brings, the inclusion of green space and tree planting throughout the proposed development will substantially benefit the area from a biodiversity perspective. A number of other ecological benefits are proposed within the development, including bat and bird boxes, and additional new habitats such as planted margins and hedgerows.
- 5.162. A number of renewable energy options have been considered but due to the Sites size and close proximity to the airport, it was not possible to include a number of these. The Sustainability Statement provides more detail on these measures.
- 5.163. Dwellings will be fitted with air source heat pumps in lieu of gas boilers. This specification would be adaptable to meet 'Future Homes Standards' which will enable the delivery low carbon homes to meet the nationally imposed timetable through changes in the building regulations. In advance of this all dwellings will be fitted with EV provision.
- 5.164. The measures outlined by the Interim Policy are therefore positively addressed by the proposals of this application. Consideration has also been given to the Energy Efficiency and Renewable Energy SPD (2007).

## Community Involvement

- 5.165. As part of the appeal scheme, an extensive amount of public consultation was undertaken which informed those proposals.
- 5.166. A summary of the public consultation is set out below:
- Leaflet drops to local residents detailing a consultation webpage;
  - Online consultation page with information on the proposals and a portal for submitting comments;
  - Further leaflet drop following amendments, detailing an updated consultation webpage;
  - Updated online consultation page with information on the amendment and a portal for submitting comments; and



- Public Exhibition on the proposals for people to understand the proposals and ask any questions as well as raising any concerns with the design team.

5.167. As a whole, the proposal maintains the design principles established under the previous Warish Hall Farm Scheme (Ref. No. UTT/21/1987/FUL), which had undergone extensive public engagement as set out above. The feedback from this consultation has been taken on board and used to inform the proposals of this application.

## Planning Obligations

5.168. At the time of submission UDC has not adopted a CIL charging schedule and will not be in a position to do so until such time it has adopted its Local Plan.

5.169. Pursuant to Section 106 (S.106) of the Town and Country Planning Act 1990, as amended, local planning authorities have the power to enter into planning obligations with any person with an interest in land for the purpose of restricting or regulating the development or use of the land. In accordance with Regulation 122 of the CIL regulations, a planning obligation must be:

- a) Necessary to make the proposed development acceptable in planning terms;*
- b) Directly related to the proposed development; and*
- c) Fairly and reasonably related in scale and kind to the proposed development.*

5.170. The above tests are repeated in paragraph 56 of the Framework. Paragraph 54 states that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

5.171. Outline draft Heads of terms are set out within **Appendix C** to secure a range of infrastructure requirements as outlined within this Statement. A draft S106 has been previously prepared, which meets the requirements of UDC Policy GEN6.

## 6. Summary and Conclusions

- 6.1. This Planning Statement has been prepared by Weston Homes Plc (The Applicant) in support of a full planning application submitted under Section 62A of the Town and Country Planning Act 1990 in relation to the Land known as Bull Field, Takeley, Essex. Takeley is identified as one of the most sustainable, larger settlements within the District. There is good access to facilities and services which support the needs for day-to-day living, as well as access to public transport and jobs.
- 6.2. The application is submitted as a full planning application, with detailed proposals for all elements of the application provided. Alongside details of 96no. new market and affordable homes, the application includes detailed information on the Site and other infrastructure, including open space provision. In summary, the application includes:
- i. 96no. new homes; including
  - ii. 39no. affordable units;
  - iii. New formal and informal open space;
  - iv. Improved Public Rights of Way; and
  - v. Provision of 1ha of land for the future expansion of Roseacres Primary School.
- 6.3. This Planning Statement should be read in conjunction with the supporting documents and technical reports which have been commissioned to accompany the application.
- 6.4. At the time of this application UDC is failing to demonstrate a 5-year HLS, which is confirmed at **4.89 years** against an annual Standard Method requirement plus 5% buffer. The report provided by Lichfield's concludes that this should be **4.45 years**. There is also a growing waiting list for affordable rented homes and shared ownership properties which totals over 1299 people set against poor delivery for both market but particularly affordable homes. The proposal would bring about a fully detailed, deliverable and positively beneficial quantity and mix of housing, including 40% (39no.) affordable units, which is a significant benefit of the scheme. It is clear there is an urgent and pressing need for new homes and these will be brought forward within 3 years.
- 6.5. In such situations where the LPA fails to demonstrate a 5-year HLS, paragraph 11d triggers the engagement of the tilted balance and presumption in favour of granting planning permission for new housing development unless any adverse impacts of doing so would **significantly and demonstrably** outweigh the benefits. The tilted balance would not be disengaged by the limited impact to three listed buildings. The Council's adopted Local Plan saved policies, which covered the period to 2011 are considerably out of date, and the weight afforded to each of the policies is reduced where this differs from more up to date national guidance as set out within the NPPF.
- 6.6. In addition to the heritage impact, there are limited adverse impacts what would be likely to arise from the development.
- 6.7. The Site falls within the countryside and the CPZ designated under UDC Policy S7 and S8 respectively. This application is accompanied by a Landscape and Visual Impact Assessment which sets out that, overall, the Site is contained within the wider

landscape, due to the high quality nature of the intervening landscaping within the proposals and limited visibility, as a result of surrounding development (existing and approved), the proposals would make no contribution to any perceived coalescence of the settlements of Takeley and Little Canfield or the airport. The proposals will not therefore lead to a demonstrable loss of openness or bring about coalescence with the airport.

- 6.8. As set out previously, there is a limited availability of brownfield sites within the District, and as such, development, including for the provision of much needed new housing, will be required to be brought forward on land which has not previously been developed and outside of existing settlement boundaries. This should focus on sustainably located sites which are in close proximity and well related to the existing settlement, such as the application Site. Accordingly, it is clear that development of this kind is required to come forward on sites such as the application Site. Therefore, the proposals would only result in limited conflict with UDC Policy S7 and S8, the weight to be given to this must also be limited.
- 6.9. The scheme proposals represent a sustainable, innovative, high quality, well-designed extension to the existing settlement edge through the establishment of clear and coherent character areas and generous open spaces. The proposals will be sympathetic to local character and historic patterns, including the surrounding built environment and landscape setting. As such, the proposals have the ability to comply with the objective of the National Planning Policy Framework.
- 6.10. A detailed BHA has been undertaken by RPS to address the impact on any relevant heritage assets. The layout and development in this area responds to those assets and to minimise harm to designated and non-designated heritage assets in the vicinity have been minimised (low level of less than substantial harm). The overall benefits of the scheme significantly and demonstrably outweigh the low level of less than substantial harm identified, as set out below.
- 6.11. The application proposals have therefore been carefully formulated to minimise any potential adverse impact of developing the Site and to maximise the potential public benefits that will be realised and secured. The proposed development would therefore result in a number of significant benefits which would support the objective of sustainable development, by proving economic, social and environmental benefits, as listed below:
- (i) Economic Benefits:
- Employment opportunities created through the supply and construction programme (**Limited Weight**);
  - Additional spending from new residents within the local economy (**Limited Weight**); and
  - Additional Council Tax receipts and New Homes Bonus directed to UDC (**Significant Weight**).
- (ii) Social Benefits:
- The provision of 96no. homes, providing a range of types and sizes to meet the identified local housing need and shortfall in supply, including bungalows,

apartments, flats above garages (FoGs), terraces and semi-detached dwellings (**Significant Weight**); including

- Provision of 40% policy compliant levels of affordable housing, providing 39no. dwellings, sufficient to meet the Council's need which currently stands at 1299 persons (**Significant Weight**);
- Support for long-term vitality and viability of the local community, including through assistance in sustaining local services and facilities (**Limited Weight**);
- Provision of additional publicly accessible open space, including the provision of formal play space (**Significant Weight**);
- Health Care Contribution to assist in realising the provision of the medical centre approved on the 7 Acres site (**Moderate Weight**);
- Land for the expansion of Roseacres Primary School supported by ECC (see letter at **Appendix I**) that will enable the school to expand to 2FE and therefore assist in the supply of school places to be provided (**Significant/Great Weight**).

(iii) Environmental Benefits:

- Provision of high-quality homes as part of a carefully designed scheme within a sustainable location, reducing the need to develop less sustainable, more sensitive sites (**Moderate Weight**);
- Fabric first approach to reduce energy consumption (**Limited Weight**);
- Provision of electric vehicle charge points and allocated cycle parking which promotes sustainable modes of transport (**Limited Weight**);
- Provision of improved pedestrian and cycle connections to increase active travel (**Significant Weight**);
- Use of modern methods of construction to reduce waste, energy and increase environmental performance (**Limited Weight**);
- Absence of gas boilers and carbon reliant energy provision (**Limited Weight**);
- Biodiversity enhancements and Net Gain in excess of 10% (**Significant Weight**);
- Reinstatement of historic native hedgerows (**Moderate Weight**);
- Woodland Enhancement Plan in perpetuity for Prior's Wood including the 1ha extension to Prior's Wood (**Significant Weight**); and
- Hatfield Forest Visitor Management Contribution (**Limited Weight**).

6.12. There is no dispute that UDC are currently unable to demonstrate a 5-year HLS and as such paragraph 11d of the NPPF applies. Overall, it is considered that the many evident and varied locational and public benefits of the Proposed Development clearly outweigh any harm resulting from the development proposed. Taking into account that the tilted balance is engaged, it is clear, as set out in this Planning Statement there are no adverse impacts arising as a result of the proposals which would significantly and demonstrably outweigh the benefits of the proposals, in the context of the provisions of the framework.

6.13. Accordingly, planning permission should be granted.

Appendix A – Application Drawing Schedule

Appendix B – Warish Hall Farm Appeal Decision – Ref. No. APP/C1570/W/22/3291524.

Appendix C – Draft Heads of Terms

Appendix D – Summary of responses to Inspector’s Decision

Appendix E – 5 Year Housing Land Supply Assessment by Lichfields

Appendix F – Helena Romanes School Appeal Decision -  
Ref. No. APP/C1570/W/22/3296064

Appendix G – Freedom of Information Request – Ref. 23-249

Appendix H – Letter from DLUHG to UDC (Dated: 27<sup>h</sup> July 2022)

Appendix I – Letter from ECC Infrastructure to Weston Homes (Dated: 12<sup>h</sup> April 2023)

Appendix J: Summary of proposed public benefits

Appendix K: Countryside Protection Zone Map

Appendix L: Countryside Protection Zone Map with recent Planning Approvals

Appendix M: ECC Place Services Historic Buildings and Conservation Pre-application  
advice Feedback.

**Appendix A – Application Drawing Schedule**

<b>DRAWING ISSUE SHEET - BULL FIELD</b>			
<b>05 Series</b>			
5.10	Site Location Plan	1-5000@A3	
5.20	Site Ownership	1-5000@A3	
<b>10 Series</b>			
10.10	Character Areas	1-1000@A1	
10.20	General Arrangement	1-1000@A1	
10.21	Coloured Site Plan	1-1000@A1	
10.22	House Types and Plots	1-1000@A1	
10.30	Refuse Strategy	1-1000@A1	
10.31	Fire and Emergency	1-1000@A1	
10.33	Affordable Housing Strategy	1-1000@A1	
10.34	Boundary Treatment	1-1000@A1	
10.35	Parking Strategy	1-1000@A1	
10.36	Street Lighting Strategy	1-1000@A1	
10.37	Electric Charging Strategy	1-1000@A1	
10.38	Traffic Calming Strategy	1-1000@A1	
<b>25 Series</b>			
25.01	2.03.F	1-100@A2	
25.02	2.05.B	1-100@A2	
25.03	2.02.C	1-100@A2	
25.04	3.06.A	1-100@A2	
25.05	3.05.C	1-100@A2	
25.06	3.05.B	1-100@A2	
25.07	3.02.C	1-100@A2	
25.08.A	3.03.D	1-100@A2	
25.08.B	3.03.D	1-100@A2	
25.08.C	3.03.D	1-100@A2	
25.09	3.04.D	1-100@A2	
25.10	4.02.B	1-100@A2	
25.11	4.03.C	1-100@A2	
25.12	4.03.D	1-100@A2	
25.13	4.03.B	1-100@A2	
25.14	5.02.C	1-100@A2	
25.15	5.03.C	1-100@A2	
25.16	HA Layouts 1	1-100@A2	
25.17	HA Layouts 2	1-100@A2	
25.20	Block 1 Floor Plans	1-100@A2	
25.21	Block 1 Roof Plan	1-100@A2	
25.22	Block 2 Plans	1-100@A2	
<b>30 Series</b>			
30.20	Block 1 Elevations	1-100@A2	
30.21	Block 2 Elevations	1-100@A2	
<b>35 Series</b>			
35.10	Street Scene A	1-200@A1	
35.11	Street Scene B	1-200@A1	
35.12	Street Scene C	1-200@A1	
35.13	Street Scene D	1-200@A1	
<b>CGI Pack</b>			
View 1	View along Woodland Edge PROW	NTS	
View 2	View of development from southern meadow	NTS	
View 3	View along gateway from school	NTS	
View 4	View along Green Link PROW	NTS	
View 5	View along Rural Edge fronting Woodland	NTS	



**Appendix B – Warish Hall Farm Appeal Decision – Ref. No. APP/C1570/W/22/3291524.**



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# Appeal Decision

Inquiry held on 21 June – 6 July 2022

Site visit made on 5 July 2022

**by Richard McCoy BSc MSc DipTP MRTPI IHBC**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 9 August 2022**

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## **Appeal Ref: APP/C1570/W/22/3291524**

### **Land at Warish Hall Farm, Smiths Green, Takeley**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Weston Homes PLC against the decision of Uttlesford District Council.
  - The application Ref UTT/21/1987/FUL, dated 9 June 2021, was refused by notice dated 20 December 2021.
  - The development proposed is "Mixed use development including: revised access to/from Parsonage Road between Weston Group Business Centre and Innovation Centre buildings leading to; light industrial/flexible employment units (c.3568sqm) including health care medical facility/flexible employment building (Use Class E); 126 dwellings on Bulls Field, south of Prior's Wood; 26 dwellings west of and with access from Smiths Green Lane; 38 dwellings on land north of Jacks Lane, east of Smiths Green Lane including associated landscaping, woodland extension, public open space, pedestrian and cycle routes".
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### **Decision**

1. The appeal is dismissed.

### **Procedural matters**

2. Takeley Parish Council (TPC) was granted Rule 6(6) status under the provisions of the Inquiries Procedure Rules.
3. I heard from TPC that a Heritage Assessment and Audit, dated March 2022<sup>1</sup>, which proposes a Conservation Area based on Smiths Green, was produced in support of the Neighbourhood Plan (NP). However, the NP is at the very early stages of preparation and the parties agreed that as an emerging document undergoing full consultation, it should be afforded very little weight. From my assessment, I have no reason to disagree and have dealt with the appeal on this basis.
4. Following the withdrawal of the Uttlesford Local Plan in April 2020 it was confirmed that the Council is at the early stages of preparing its new Local Plan. The Regulation 18 consultation planned to take place in June/July 2022 has been delayed. Given the new plan is in the very early stages of preparation it carries very little weight in this appeal.

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<sup>1</sup> CD 13.10 Appendix 2

5. The development plan for the area includes the Saved Policies of the Uttlesford Local Plan (2000-2011), adopted in 2005. The policies of the Uttlesford Local Plan which are most important to the proposal under this appeal are agreed<sup>2</sup> as Policy S7 - The Countryside, Policy S8 - The Countryside Protection Zone, Policy GEN6 - Infrastructure Provision to Support Development, Policy ENV2 - Development affecting Listed Buildings, Policy ENV4 Ancient Monuments and Sites of Archaeological Importance, Policy ENV7 - The Protection of the Natural Environment - Designated Sites, Policy ENV8 - Other Landscape Elements of Importance for Nature Conservation, Policy ENV9 - Historic Landscapes and Policy H9 - Affordable Housing. Those of relevance, under paragraph 219 of the National Planning Policy Framework (NPPF), should be given due weight according to their degree of consistency with the Framework, and I return to this matter below.
6. On 7 February 2022, the Minister of State for Housing gave notice that, under powers conferred by section 62A of the Town and Country Planning Act 1990, Uttlesford District Council would be formally designated in respect of applications for planning permission for major development. The direction<sup>3</sup>, which took effect on 8 February 2022, relates to the quality of making decisions by the Council on applications for planning permission for major development under Part 3 of the Act. The decision on the proposal which forms the subject of this appeal was made before the Designation took effect and is in respect of a decision taken by the Council to refuse planning permission for major development following an Officer recommendation to approve.
7. The appellant's witness, John Russell BEng(Hons), CMILT, MIHT, who was going to give evidence on Transport, was not called while Jennifer Cooke and Tim Murphy gave evidence at the "Round Table" session on Heritage for the appellant and the Council respectively, and Charles Crawford, Jacqueline Bakker and Bobby Brown gave evidence at the "Round Table" session on Landscape Character and Appearance for the appellant, the Council and the Parish Council respectively.
8. A signed and dated Planning Obligation<sup>4</sup> by Deed of Agreement under Section 106 of the Town and Country Planning Act 1990 (S106 Agreement) was submitted by the appellant. This covers a phasing plan, affordable housing, a Prior's Wood Management Plan, public open space provision, Site of Alternative Natural Greenspace provision, a healthcare contribution, a Hatfield Forest contribution, upgrading of the public byway route and pedestrian link provision, submission of a custom build phasing scheme, and the transfer of healthcare facility land. Based on the evidence presented at the Inquiry, I consider that the obligations in the S106 Agreement meet the tests set out in the NPPF and satisfy the requirements of regulation 122 of The Community Infrastructure Levy Regulations 2010. I can therefore give the S106 Agreement significant weight and I return to these matters below.
9. In the light of the provisions of the S106 Agreement, the Council confirmed that it was no longer pursuing refusal reason 4 in respect of "a failure to deliver appropriate infrastructure to mitigate any impacts and support the delivery of the proposed development". I have dealt with the appeal on this basis although having regard to the concerns raised in representations from interested parties,

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<sup>2</sup> SoCG CD 5.2A

<sup>3</sup> CD 4.10

<sup>4</sup> ID 40

I go on to deal with a number of these issues below under Main Issues and Other Matters.

### **Application for costs**

10. At the Inquiry an application for costs was made by Weston Homes PLC against Uttlesford District Council. This application is the subject of a separate Decision.

### **Main Issues**

11. All of the main parties agreed that the Council is unable to demonstrate a five-year supply of deliverable housing land. The Council's Monitoring Report<sup>5</sup> for 2020/21 identifies a five-year housing land supply of 3.52 years. In which case, paragraph 11d of the NPPF is engaged.
12. Against this background, I consider the main issues to be the effect of the proposal on:
- i. the character and appearance of the surrounding area, including the Countryside Protection Zone,
  - ii. the significance of nearby heritage assets including Warish Hall moated site and remains of Takeley Priory SAM, the Grade 1 listed Warish Hall and Moat Bridge, along with other designated and non-designated heritage assets,
  - iii. the adjacent ancient woodland at Priors Wood, and
  - iv. whether any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole or whether specific NPPF policies indicate that development should be restricted.

### **Reasons**

#### *Background*

13. The appeal site extends to around 25.15ha and comprises of three main land parcels known as 7 Acres, Bull Field and Jacks. 7 Acres (2.27ha) is made up of the field situated between Prior's Wood to the east and the Weston Group Business Centre to the west. Bull Field (12.1ha) is made up of the field situated west of Smiths Green Lane and bounded by Prior's Wood to the north and to the west and south by properties within North Road, Longcroft (including Roseacres Primary School field), Layfield, Longcroft and Smiths Green. Jacks (2.1ha) is a pasture field located on the eastern side of Smiths Green Lane which separates it from the rest of the appeal site. Abutting the settlement edge to the north of Takeley, the appeal site is mostly flat and level.
14. Within Uttlesford District, Takeley is one of the largest villages and is considered a 'Key Rural Settlement', the highest order of settlement below Stansted Mountfitchet village and the main towns of Great Dunmow and Saffron Walden. As such, Takeley benefits from a number of facilities and services including primary schools, shops and services.

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<sup>5</sup> Para 6.4 SoCG CD 5.2A

15. Proposed is the erection of 188 dwellings to include 76 affordable dwellings and up to 3 No. Custom-build dwellings, along with 3568m<sup>2</sup> of flexible employment space. The proposal would also provide a medical/health facility hub building, an extension to Roseacres Primary School, an extension and enhancement of Prior's Wood, formal and informal open space provision, cycleway and pedestrian links and provision of permissive walking routes. These would be secured via the submitted S106 Agreement.
16. It is proposed to spread the development across 2no. sites, split between three character areas, as follows: Commercial Area (7 Acres); Woodland Neighbourhood/Rural Lane (East and West sections of Bull Field and entrance to Jacks) and Garden Village (Jacks).

#### *Location*

17. Saved LP Policy S7 seeks to restrict development in the open countryside directing it to the main urban areas, the A120 corridor and selected Key Rural settlements, including Takeley. The policy has three strands: firstly, to identify land outside of the settlement limits, secondly, to protect the countryside for 'its own sake', and thirdly, to only allow development where its appearance protects or enhances the particular character of the countryside within which it is set, or if there are special reasons why such development needs to be in that location. It is common ground that the proposal would be located outside the development limits for Takeley as defined by the Uttlesford Local Plan. In this respect, there would be a breach of Policy S7.

#### *Character and appearance of the countryside*

18. While neither the appeal site, nor the surrounding area is a valued landscape, within the meaning of paragraph 174(a) of the NPPF, at the District level it is located within the Broxted Farmland Plateau Landscape Character Area (LCA) as defined in the District level Uttlesford Landscape Character Assessment<sup>6</sup>. This is characterised by gently undulating farmland, and large open landscapes with tree cover appearing as blocks on the horizon and is assessed within the LCA as having a moderate to high sensitivity to change.
19. Prior's Wood within the appeal site, is an area of Ancient and Semi-Natural Woodland while the verge adjoining Smiths Green Lane is designated as a village green<sup>7</sup>. In addition, Smiths Green Lane, north of its junction with Jacks Lane, is designated as a Protected Lane<sup>8</sup> under Local Plan Policy ENV9 (it is identified in the Uttlesford Protected Lanes Assessment as "UTTLANE 166 Warish Hall Road" but it was more commonly referred to at the Inquiry as Smiths Green Lane and it is the latter name that I refer to as "Protected Lane" throughout this Decision). This is a heritage policy and I deal with this below under Heritage Assets. However, some of the criteria underpinning the designation have a landscape dimension and were covered by the landscape witnesses at the Inquiry.
20. Public rights of way that traverse the site and surrounding area include PROW 48\_40 which runs across the site from its western boundary near Parsonage Road through to Bull Field, south of Prior's Wood, PROW 48\_41 which runs across the southern section of Bull Field, PROW 48\_25 which runs along the

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<sup>6</sup> CD 1.95 and 11.4

<sup>7</sup> ID 16

<sup>8</sup> CD 10.16

northern boundary of the eastern field (Jacks) and PROW 48\_21 which runs parallel to the Site's northern boundary, adjacent to the A120 and forms part of the Harcamlow Way – a National Trail connecting Harlow to Cambridge.

21. A Landscape and Visual Impact Assessment<sup>9</sup> (LVIA) by Allen Pyke Associates dated June 2021 was submitted with the planning application. The methodology used in the LVIA is generally compliant with GLVIA3 and identifies 19 visual receptors in respect of this proposal. I have however, in coming to my view, taken account of the appellant's landscape witness evidence<sup>10</sup> both in terms of the review of the submitted LVIA and the conclusions reached on landscape and visual effects, and in finding the area to have a medium susceptibility to change.
22. The development would be built on the edge of the village, extending the built form into the open countryside. Whilst in overall terms the proposal would have little effect on the wider LCA, in local terms the appeal site is part of an open, tranquil environment, notwithstanding the proximity of the airport and the A120, within which the Prior's Wood ancient woodland is experienced. For that reason, it has community value being an "everyday" landscape that is appreciated by the local community. Nevertheless, I agree with the appellant that in terms of that part of the appeal site which comprises 7 Acres and Jacks, it is enclosed by mature boundary planting and existing development. This sense of enclosure means that these areas of the appeal site are largely separate from the wider landscape and the LVIA identified visual receptors. Accordingly, I consider the proposal would have minimal effect in terms of landscape character and visual impact in respect of these areas.
23. However, with regard to Bull Field (west and central areas), Bull Field (east), Maggots Field and Prior's Wood, these areas of the appeal site are of a more open character and make an important contribution to the semi-rural, agrarian nature of the area to the north of the built-up areas of Takeley and Smiths Green. I observed, notwithstanding the enclosure that is created by the boundary planting, that this part of the appeal site forms a strong demarcation between the countryside and the existing urban development to the south. As such, I consider this part of the appeal site shares its affinity with the countryside with which it forms an integral and functional part.
24. In addition, Bull Field and Maggots Field give a sense of grandeur to Prior's Wood when viewed from the visual receptors of the Protected Lane and PROWs 48\_40, 48\_41 and 48\_25 (where it joins the Protected Lane), providing it with "breathing space" in the context of the existing built development evident in the wider area. By introducing development, albeit of a low density in the area of the Protected Lane (the Rural Lane Character Area), the proposal would reduce views of the woodland to glimpsed views between dwellings across formerly open countryside that would become urbanised. This would be most apparent from PROWs 48\_41 and 48\_25 (where it joins Smiths Green Lane), and the Protected Lane.
25. While I note the existing hedges along the verge of the Protected Lane, I nevertheless consider that the roofs of the proposed dwellings and the new accesses to the development would be apparent from the Protected Lane and the overall built form would be noticeable at night when street lights and other

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<sup>9</sup> CD 1.95

<sup>10</sup> CD 13.3A

lights from the development would be likely to be seen. In addition, the quality of the experience for users of PROWs 48\_40, 48\_41 would be diminished, given the proximity of the proposed housing. It would create an urbanised environment through which the footpaths would pass in place of the current agrarian field, within which and from which, views of Prior's Wood are enjoyed. The urbanising effect of the proposal may be seen from the appellant's submitted LVIA Views and "before and after" visualisations<sup>11</sup>. By so doing, the intrinsic character of the countryside would be adversely affected by the proposal in conflict with LP Policy S7.

26. I have given careful consideration to the appellant's landscape and design evidence, including the revisions to the scheme aimed at reflecting the grain of nearby settlements. I also fully appreciate that the landscape to which the appeal site belongs is not rare, or of exceptional quality, and that the site itself has no particular landscape designation. In this sense I agree that the landscape has a moderate value. However, Bull Field and Maggots form part of the wider open countryside to the north of Takeley and Smiths Green, and are an integral part of the local landscape character. They share their affinity with the countryside. This gives this part of the appeal site a high susceptibility to change, despite the presence of nearby urbanising influences.
27. In my judgement, the development would introduce an urban form of development that would not be sympathetic to the local character and landscape setting, and notwithstanding the mitigating design measures to create green infrastructure and character areas of varying layouts and densities, in the context of Policy S7 and what I heard, I consider that no special reasons have been demonstrated as to why the development, in the form proposed, needs to be there.
28. Against this background, I consider that the proposal would have a significant adverse effect on local landscape character. It would change the intrinsic rural character of the area by introducing built development into a rural setting thereby severing the connection of Prior's Wood with the open agrarian environment to its south. This would be apparent from the Protected Lane and PROWs identified above in paragraph 24, resulting in a significantly adverse visual impact in conflict with LP Policy S7 and NPPF paragraphs 130 and 174b.

#### *Countryside Protection Zone*

29. The appeal site is also situated within the Countryside Protection Zone (CPZ) as defined in LP Policy S8. This is an area of countryside around Stanstead Airport within which there are strict controls on new development, particularly with regard to new uses or development that would promote coalescence between the airport and existing development in the surrounding countryside, and adversely affect the open characteristics of the zone.
30. The 3 areas which make up the appeal site are large pastoral and agrarian fields. 7 Acres and Jacks have planting around their boundaries while Bull Field has Prior's Wood to the north and is open to the Protected Lane on its eastern flank. While the appeal site contributes to the character and appearance of the countryside to the south of the airport, and the CPZ as a whole, it is separated from the airport by the A120 dual-carriageway and sits in close proximity to development in Takeley, Smiths Green and Little Canfield.

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<sup>11</sup> CD 1.95 LVIA Views 3, 4, 5, 6, 7, 8 and 9 and CD 13.3B Figures 5a & 5b, and 5c & 5d



31. My attention was drawn to a number of recent decisions where planning permissions have been granted, both by the Council and on appeal, for housing developments within the CPZ. Nevertheless, taking this proposal on its merits and the site-specific circumstances of the appeal site, in particular Bull and Maggots Fields being within the countryside and open, I consider it would have its character changed by the introduction of new development. In this regard, it would result in a reduction of the open characteristics of the countryside around the airport.
32. In terms of coalescence with the airport, I acknowledge that the proposal would further increase built development between the airport and Takeley, in a location where the gap between the airport and surrounding development is less than in other areas of the CPZ. However, the open countryside between the airport and the A120, along with Priors Wood would prevent the proposal resulting in coalescence between the airport and existing development.
33. Against this background, while the factors set out above would serve to reduce the impact, the proposal would nevertheless result in an adverse effect on the open characteristics of the CPZ in conflict with LP Policy S8.

*Conclusion on the Character and Appearance main issue*

34. Drawing all of these points together, I consider that there would be conflict with LP Policy S7 in respect of the location of the development and the detrimental effect on local landscape character and visual impact. This would result in the proposal failing to protect or enhance the particular character of the part of the countryside within which it is set. In addition, I find the proposal would conflict with LP Policy S8 in terms of the adverse effect on the open characteristics of the CPZ. However, I will consider the weight to be attributed to this policy conflict later in my decision, turning firstly to address the effect on heritage assets.

*Effect on the significance of heritage assets*

35. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) (the Act) states that special regard should be paid to the desirability of preserving the settings of listed buildings, where those settings would be affected by proposed development. The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
36. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight attaches to the asset's conservation; the more important the asset, the greater that weight should be. Significance can be harmed through development within an asset's setting. Historic England guidance: The Setting of Heritage Assets<sup>12</sup>, indicates that setting embraces all of the surroundings from which an asset can be experienced or that can be experienced from or within the asset. Setting does not have a fixed boundary and cannot be defined, in perpetuity, as a spatially bounded area or as lying within a set distance of a heritage asset.

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<sup>12</sup> CD 10.1

37. The significance of a heritage asset is defined in the NPPF as its value to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. Significance may be harmed by a development and it is necessary to determine the degree of harm that may be caused.
38. A Heritage Statement of Common Ground (HSoCG) was agreed between the appellant and Uttlesford District Council which identified several heritage assets that would be affected by the proposal as a development within their settings. These are: Warish Hall and Moat Bridge (Grade 1 listed), Warish Hall moated site and remains of Takeley Priory Scheduled Monument (SM), Moat Cottage (Grade II\* listed) and Hollow Elm Cottage, Goar Lodge, Beech Cottage, The Croft, White House, The Cottage, The Gages, Pump at Pippins and Cheerups Cottage (all Grade II listed)<sup>13</sup>.
39. In addition, the Protected Lane, as a non-designated heritage asset, was identified in the HSoCG as being affected by the proposal as a development within its setting. From my assessment of the proposal, I agree with the list of designated and non-designated heritage assets identified by the parties. I deal with each of them below in terms of the effect of the proposed development.
40. *Warish Hall and the associated Moat Bridge*: its significance derives from its architectural and historic interest in terms of the surviving historic fabric and design detailing from the late 13th century, with architectural features indicative of its age and historic function. The setting is well contained within the moated site given the sense of enclosure created by the surrounding mature trees. The contribution of setting to its significance is high given it is part of a planned medieval moated complex but the setting is very much confined within the immediate area of the hall and bridge. In this regard, I consider that the proposal would have no effect on the significance of this designated heritage asset.
41. *Moat Cottage, The Cottage, The Croft, White House and The Gages*: these dwellings are closely grouped within the historic, linear hamlet of Smiths Green. They each are set back from, and sit within, a residential plot with hedgerow boundaries, separated from the road by large open, grass verges. I consider that their significance derives from their architectural and historic interest, dating from around the early 16<sup>th</sup> century and containing fabric and artistic elements from that time.
42. While modern development has intruded into their settings to the east and west, their settings to the north include the open aspect of Bull Field, across its agrarian landscape to Prior's Wood. This makes a positive contribution to their significance. By introducing development into this area, the proposal would fail to preserve the settings of these listed buildings, thereby detracting from their significance.
43. *Hollow Elm Cottage*: located at the northern end of Smiths Green, its significance is predominately derived from its historic, architectural and artistic interest, being one of the earliest buildings in the hamlet. Its setting to the east includes Jacks and beyond that the late 20th century infill development of Little Canfield. The wider setting to the north and west is made up of the open fields

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<sup>13</sup> Paragraph 4.1 CD 5.3A

- of Bull and Maggots, and Prior's Wood. To the south is Jacks Lane and the linear historic settlement of Smiths Green.
44. In particular, Bull Field, Maggots Field and Prior's Wood, serve to give the setting of this designated heritage asset a sense of tranquillity which overall makes a positive contribution to its significance. The proposal, by introducing development into the area to the north and west, would fail to preserve the setting of this listed building, thereby detracting from its significance.
  45. *Goar Lodge and Beech Cottage*: the significance of these heritage assets derives from their historic, architectural and artistic interest as evidenced by the surviving historic fabric. They document the local vernacular through their form, layout, building methods and materials.
  46. Their shared setting is made up of the rural character of the large open grassed areas and verges of Smiths Green Lane. This is apparent when travelling south towards Smiths Green in terms of the transition from the agrarian fields of Bull Field and Maggots to the dwellings of the historic hamlet. This gives the historic context of these listed buildings. While there is an intervening hedgerow between them and Bull Field, it is possible to appreciate the historic rural context to their rear and the setting makes a high contribution to their significance. By introducing development into this area, the proposal would fail to preserve the settings of these listed buildings, thereby detracting from their significance.
  47. *Cheerups Cottage*: the significance of this heritage asset is predominately derived from its historic, architectural and artistic interest as evidenced in some of the surviving historic fabric. As a vernacular building, Cheerups Cottage demonstrates the historic living expectations, building methods and materials available at the time of its construction. Standing at the northern end of Smiths Green, there is both inter-visibility and co-visibility between the listed building and Bull Field which is indicative of the wider historic rural setting which the historic maps show has undergone little change over the centuries.
  48. This forms the majority of the building's setting, adding a sense of tranquillity and making a very positive contribution to the significance of this designated heritage asset. By introducing development into this area, the proposal would fail to preserve the setting of this listed building, thereby detracting from its significance.
  49. *Pump at Pippins*: the pump is a 19th century example of its type. Its significance is drawn from its surviving historic fabric and the evidence it provides of historic living conditions in the area. It stands at the northern end of the hamlet of Smiths Green, close to the junction of Smiths Green and Jacks Lanes, within part of the village green. While there is recent development in the vicinity, the village green and the open countryside to the north and west demonstrate its historic rural context as a focal point of the hamlet. This forms its setting which makes a high contribution to its significance.
  50. Unlike the parties who agreed that there would be no harm arising from the proposed development to the significance of the pump<sup>14</sup> I consider that by introducing development into this area, the proposal would fail to preserve the setting of this listed building, thereby detracting from its significance.

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<sup>14</sup> Paragraph 5.7 CD 5.3A

51. *Warish Hall moated site and remains of Takeley Priory Scheduled Monument*: this scheduled monument includes a priory site situated on high ground, around 2km east of Takeley church. It contains a complete, rectangular moat which is set within a much larger moated enclosure. As a scheduled monument it is an asset of the highest significance and is of particular historical and archaeological importance.
52. The setting of this SM makes a strong contribution to its significance. Like other examples of its type in this part of England it was constructed in the rural landscape. Whilst field boundaries in this vicinity have changed over time and the site itself has become enclosed by mature trees, the fundamental agrarian land use in the vicinity of the SM has remained. The link to Prior's Wood and Bull Field in my judgement, is an important one in terms of setting. It is likely that the Priory had an ownership and functional relationship with the woodland and the SM retains its functional link to these rural features in the surrounding landscape.
53. Notwithstanding the built development in the vicinity including the airport, the A120 and the housing beyond Smiths Green to the south, I consider that this asset can be appreciated and experienced from Priors Wood and Bull Field in terms of the visual and historical functional links, and the tranquillity they provide to the SM. The undeveloped grain of the surrounding landscape character, as part of the asset's setting, makes a positive contribution to its significance.
54. The proposal would erode this character by bringing development closer to the SM within the nearby Bull Field and Maggots Field. The experience of the SM, from its southern ditch, would be adversely altered as the open agrarian landscape would be enclosed by built development. This would be harmful to the significance of the designated heritage asset.
55. In this regard, I agree with Historic England<sup>15</sup> who in its consultation response noted that it is clear that the SM draws a considerable amount of its significance from its setting. In accepting that the SM is compromised by previous development, it still however benefits from long uninterrupted views southwards towards Prior's Wood and Smiths Green. Against this background, Historic England considered there would be less than substantial harm of a moderate to high degree.
56. *Warish Hall Road and Non-Designated Heritage Asset*: the background to this is set out above in paragraph 19 including how it is referred to locally as Smiths Green Lane. For clarity, it is that section of the lane which runs north from the junction with Jacks Lane towards the A120, adjacent to Bull Field<sup>16</sup>. It is protected due to a combination of features identified in the Uttlesford Protected Lanes Assessment (UPLA). These are Diversity, Integrity, Potential, Aesthetic, Biodiversity, Group Value, and Archaeological Association. I have dealt with a number of these under landscape character and visual impact under the first main issue above (character and appearance), assessing the contribution Smiths Green Lane makes to local landscape character and the effect of the proposal upon it as a visual receptor.

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<sup>15</sup> CD 3.1 and CD 3.3

<sup>16</sup> CD 13.2 Appellant's Heritage POE

57. In terms of this main issue, LP Policy ENV9 identifies "Protected Lanes" as part of the local historic landscape. Thus, the Protected Lane falls within the NPPF definition of a "heritage asset" as it has been "identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest".
58. While the parties disputed the extent of the Protected Lane, in my judgement, it encompasses the verges (which are registered as a village green), hedgerows and other features as identified in the evaluation criteria for the Protected Lanes contained in the UPLA. Features such as verges (including those that form part of the village green), hedgerows and ditches/ponds are an intrinsic part of the historical make-up of the Protected Lane and contribute to its significance as a non-designated heritage asset (NDHA).
59. In the wider sense, the lane has a strong visual and functional relationship with the countryside through which it passes, including Bull Field and Maggots Field making it of historic interest to the local scene and imbuing it with a high level of significance. This countryside environment forms its setting and makes a positive contribution to its significance. The proposal, by introducing development into this agrarian setting would be harmful to the rural setting of the Protected Lane by the way in which it would create new vehicular accesses on to it and would bring built form close to its western verge. The urbanising effect of the proposal on the setting of the Protected Lane and the creation of new accesses across the verges, forming gaps in the hedgerows would both directly and indirectly affect the NDHA in conflict with LP Policy ENV9, which can only be justified if "the need for the development outweighs the historic significance of the site".
60. As may be seen from my conclusion on the first main issue, I consider that in terms of landscape character and visual impact, the overall effect of the form, layout and density of the proposal would be harmful, notwithstanding the mitigation measures to be employed. That conclusion takes account of Smiths Green Lane as a landscape component and visual receptor within the overall landscape, noting that in overall terms it has not been demonstrated that the development in the form proposed needs to be there.
61. In my judgement, the consideration of the effect of the proposal on the Protected Lane as a NDHA is more focussed and deals with that stretch of Smiths Green Lane that has NDHA status. As noted above, the proposal has a number of character areas. One of these "The Rural Lane", responds to the rural character of the Protected Lane. In this regard the proposal has gone through several revisions and in the area of the Protected Lane would take the form of a low-density development that reflects the established linear form of Smiths Green Hamlet, along Smiths Green Lane. The proposed large family dwellings would be set back from the lane with a series of driveways serving small clusters of dwellings and have an appearance rooted in the local vernacular.
62. While there would be harm to the significance of the Protected Lane as a NDHA for the reasons given above, it would be mitigated to some extent by the proposed Rural Lane design characteristics regarding density and layout. This would result in a moderate level of harm as the historical significance of the lane as an artery through a countryside environment, though diminished, would still be discernible.

### *Conclusion on the Heritage Main Issue*

63. Taking all of the above together, it is clear that there would be an adverse impact on the significance of several of these designated heritage assets, arising from the failure of the proposal to preserve the settings of the listed buildings and the harm to the significance of the SM arising from development within its setting. This would be in conflict with LP Policy ENV2 which provides that development proposals that adversely affect the setting of a listed building will not be permitted and ENV4 which deals with ancient monuments and their settings.
64. In coming to this conclusion, I have had regard to the appellant's mitigation measures<sup>17</sup>. While it is argued that design, layout, density and planting within the proposal would serve to mitigate its effects, I nevertheless consider that the proposal, by introducing an urbanising influence into the open, pastoral setting of these heritage assets, would be to the detriment of their significance, resulting in less than substantial harm.
65. However, given the majority of significance in each case is derived from their surviving historical form and fabric which will not be affected by this proposal, the resulting harm would be less than substantial. The parties agree that the degree of less than substantial harm is of a low level in the case of Moat Cottage, The Croft, White House, The Cottage, The Gages and Cheerups Cottage and medium in the case of Hollow Elm Cottage. From my assessment, I have no reason to disagree.
66. In the case of Goar Lodge and Beech Cottage, for the reasons given above, I agree with the Council that the proposal would result in a medium level of less than substantial harm. However, unlike the parties who agree no effect on the Pump at Pippins<sup>18</sup>, I consider that the proposal, for the reasons set out above, would cause a medium level of less than substantial harm. In addition, in respect of the Warish Hall moated site and remains of Takeley Priory Scheduled Monument (SM), for the reasons given above, I agree with Historic England and consider the proposal would cause a moderate to high level of less than substantial harm.
67. In any event, whether or not I accept the appellant's findings regarding the degree of less than substantial harm, under NPPF paragraph 202 this harm should be weighed against any public benefits of the proposal, including securing the asset's optimum viable use and this is a matter I return to below.
68. With regard to the Protected Lane (NDHA), LP Policy ENV9 requires the need for the development to be weighed against the historic significance of the site. This is broadly consistent with NPPF paragraph 203 which requires a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. The proposal would indirectly affect the significance of the NDHA by introducing development within its setting and directly by creating accesses onto the Protected Lane. In this case however, while the significance of the heritage asset is of a high level, the scale of the harm would be of a moderate nature, given the revisions to the scheme which has reduced the density of development in the vicinity of the Protected Lane.

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<sup>17</sup> CD 13.2

<sup>18</sup> Paragraph 5.7 CD 5.3A



69. Against this is the significant need for housing in an area lacking a deliverable supply of five-year housing land. While the balances under the Policy and the NPPF may differ, I consider that the need for the development would outweigh the significance of the NDHA under LP Policy ENV9 and the moderate harm to significance under NPPF paragraph 203 would be outweighed by the significant benefit of the housing provision arising from the proposal. The proposal therefore, as it relates to the historic interest of the Protected Lane, would not conflict with LP Policy ENV9.

*The effect of the proposal on the adjacent ancient woodland at Prior's Wood*

70. Concerns were raised that the proposal would fail to provide a sufficient buffer between the proposal, including the access road, cycleway and dwellings, and the ancient woodland of Prior's Wood. This arises from the Standing Advice issued by Natural England and The Forestry Commission<sup>19</sup> which recommends that a buffer zone of at least 15 metres from the boundary of the woodland should be provided in all cases.

71. It should be noted that this is a separate concern to that of the effect on Prior's Wood as part of the overall landscape and character and visual impact which I have dealt with above under the 1<sup>st</sup> main issue. In that regard, I have concluded that the proximity of the development to Prior's Wood in place of an open agrarian field would result in harm to the character and appearance of the area, including Prior's Wood. The concern under this main issue is that trees within the woodland itself would be harmed by the proposed development.

72. Whilst paragraph 180(c) of the NPPF makes clear that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy, the Council's ecology advice from Place Services raised no issues as regards impacts on Prior's Wood in respect of any resulting loss or deterioration.

73. Indeed, it is common ground between the Council and the appellant<sup>20</sup> that there is no objection to the technical design of the proposal as a result of any impact on trees, and no trees within Prior's Wood are to be removed or would be impacted on directly as a result of the proposed route through the buffer. Moreover, mitigation of the impact on Prior's Wood includes the Woodland Management Plan (which is part of the S106 Agreement).

74. The parties disputed where the buffer zone should be measured from, with the appellant preferring the trunks of the trees on the outer edge of the woodland and the Council, the outer edge of the ditch. Either way, it is agreed that the 15m buffer would be breached by the cycle way along the southern edge of Prior's Wood and a 35m stretch of the access road connecting 7 Acres and Bull Field (referred to at the Inquiry as the "pinch point"). I heard, as agreed in the SoCG, that no trees within Prior's Wood would be removed or would be impacted on directly as a result of the proposed access road and cycle way route within the buffer, including the road layout at the pinch point.

75. In this regard, I agree with the Inspector in a previous appeal<sup>21</sup> concerning an issue with strong similarities to this case where that Inspector noted that

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<sup>19</sup> CD 12.1

<sup>20</sup> Paragraphs 6.28 and 6.31 CD 5.2A

<sup>21</sup> Appeal Decision ref APP/C1570/W/21/3271310 CD 8.8



“some development is proposed within the buffer, through a mixture of road or car parking and re-grading and other landscaping works”. In considering the Standing Advice and the recommendation for a 15m buffer, that Inspector found that there was compliance with what is now para 180(c) of the NPPF. This was on the basis that “no above ground built form is proposed in that area, such as housing” and “the level of incursion is relatively minor”. I consider that the circumstances of this case are very similar.

76. That Inspector also accepted that the development that would take place would be contrary to the Standing Advice, as is the situation in the appeal before me, but went on to note that it had “been demonstrated that there would be no incursions into the root protection area”. From my assessment of this proposal, I consider that there would be no incursion into the root protection area and no harm to trees would result, as set out in the SoCG.
77. In addition, I am content from the submitted written evidence and what I heard at the Inquiry, that neither the proposed road or cycleway within the buffer or proposed housing in the vicinity, would lead to indirect effects on the ancient woodland as identified in the Standing Advice, given the proposed measures set out in the Prior’s Wood Management Plan.
78. Against this background, I consider that there would be no conflict with Policy ENV8, notwithstanding that I have found other policy conflict regarding the effect on Prior’s Wood in respect of landscape character and visual impact harm.

*Whether any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole or whether specific NPPF policies indicate that development should be restricted*

79. While I have found that the proposal would accord with LP Policies ENV8 and ENV9, and with the submission of the S106 Agreement and withdrawal of refusal reason 4 would not conflict with Policies GEN6, ENV7 and H9, I have nevertheless identified harm arising from the proposal in relation to its location outwith the defined settlement boundary of Takeley, the character and appearance of the area in terms of landscape character and visual impact, the CPZ and the effect on designated heritage assets. In this regard, the proposal conflicts with LP Policies S7, S8, ENV2 and ENV4, which are the policies that go to the principle of the proposed development, and therefore conflicts with the development plan as a whole. Having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should only be granted if there are material considerations which outweigh that conflict.
80. As set out above, paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework, but that due weight should be given to them, according to their degree of consistency with the Framework. In addition, it is common ground that the Council is unable to demonstrate a five-year supply of deliverable housing land. Given that the most up-to-date housing land supply position before the Inquiry was 3.52 years, the shortfall is significant. In the light of NPPF paragraph 11d and associated footnote 8, the absence of a five-year supply means that the policies most important for determining this appeal are deemed to be out-of-date.

81. Dealing with each of the policies in turn, Policy S7 is important to the determination of the appeal and is of direct relevance as to whether or not the appeal site would be an appropriate location for development. The parties agreed that the proposal would conflict with the locational strands of the policy, as a result of being outwith the designated settlement boundary. However, the absence of a five-year supply is a situation that has prevailed for a number of years and it is common ground that housing supply will not be addressed until a new local plan is adopted (2024 at the earliest). Although Uttlesford scored well in the 2021 Housing Delivery Test<sup>22</sup>, with a score of 129%, the latest figures published by the Council show that in the next period it fell to 99% and is likely to fall further this year again due to reduced housing delivery in the previous monitoring year 2021/22.
82. The Council accepts that settlement boundaries must be flexible and that Policy S7 must be breached in order for a sufficient supply of houses to be provided. Against this background, I conclude that the conflict with Policy S7, with reference to it defining land outside of the settlement strategy of the plan, should be accorded limited weight. In reaching this view, I have had regard to the previous appeal decisions cited by the parties that reached contrasting views on the degree of weight to be given to breaches of Policy S7 based on the specifics of each of those particular cases.
83. In respect of recognising the intrinsic character and beauty of the countryside, I consider Policy S7, in requiring the appearance of development “to protect or enhance the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there”, is broadly consistent with NPPF paragraphs 130 and 174b. Consequently, having concluded that there would be significant landscape character and visual impact harm arising from the proposal without special reasons being demonstrated as to why the development in the form proposed needs to be there, I give moderate weight to this conflict with the last strand of Policy S7, given it is not fully consistent with the NPPF. In reaching this view, I have had regard to the previous appeal decisions cited by the parties that reach contrasting views on the degree of weight to be given to breaches of Policy S7 based on the specifics of each of those particular cases.
84. Turning to Policy S8 and the CPZ, I agree with the Inspector who in appeal ref. APP/C1570/W/19/3243727<sup>23</sup> concluded that Policy S8 is more restrictive than the balancing of harm against benefits approach of the NPPF, noting that the NPPF at paragraph 170 advises that decisions should recognise the intrinsic character and beauty of the countryside and that the ‘protection’ afforded to the CPZ in Policy S8 is not the same as the Framework’s ‘recognition’.
85. Given the policy is not fully consistent with the NPPF and there is a pressing need for deliverable housing land in the District, I consider that the conflict with LP Policy S8 should be given moderate weight. Again, I have taken account of the previous grants of planning permission within the CPZ both by the Council and at appeal. However, I have reached my conclusion on the weight to be given to the conflict with this policy based on the effect of the proposal on the site-specific circumstances of this case.

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<sup>22</sup> SoCG para 6.6 CD 5.2A

<sup>23</sup> CD 8.5

86. Policies ENV2 and ENV4 both concern the historic environment. In the case of the former, while ENV2 does not contain an assessment as to whether any resulting harm is substantial or less than substantial and does not go on to require a balance of harm against public benefits, I consider that as set out the policy is broadly consistent with the NPPF and reflects the requirements of S66(1) of the Act. Nevertheless, while ENV2 requires that planning permission be withheld where there are adverse effects on the setting of a listed building (in this case there would be less than substantial harm to the significance of several listed buildings), paragraph 202 of the NPPF requires that this harm is weighed against the public benefits of the proposal, and it is that balance that I move onto below.
87. In the case of the latter, while the policy itself deals with preserving archaeology in-situ, the explanatory text makes clear that the desirability of preserving an ancient monument and its setting is a material consideration in determining planning applications. Insofar as the policy seeks to preserve an ancient monument in-situ when affected by proposed development within its setting, I consider it is broadly consistent with the Framework. In this case, I have found that the proposal would result in less than substantial harm to the significance of a scheduled monument. However, as with Policy ENV2, paragraph 202 of the NPPF requires that this harm is weighed against the public benefits of the proposal, and it is that balance that I turn to below.

*NPPF paragraph 202 balance*

88. Public benefits in respect of NPPF paragraph 202 will provide benefits that will inure for the wider community and not just for private individuals or corporations. It was not suggested that the proposal is necessary in order to secure the optimum viable use of the designated heritage assets.
89. The appellant did claim however that the proposal would bring public benefits by creating a number of jobs during the construction phase, and through the submitted S106 Agreement by securing the provision of affordable housing, a Prior's Wood Management Plan, public open space provision, Site of Alternative Natural Greenspace provision, a healthcare contribution, a Hatfield Forest contribution, upgrading of the public byway route and pedestrian link provision, submission of a custom build phasing scheme, and the transfer of healthcare facility Land.
90. In my judgement, employment and economic activity during the construction phase would be temporary benefits and many of the S106 Agreement contributions would be necessary to mitigate the impacts of the proposal on local infrastructure, climate and ecology. In which case they attract limited weight.
91. However, the proposed development would provide a mix of private, intermediate and social housing, including bungalows, flats, family dwellings and provision for custom build housing. The dwelling size and tenure mix would provide a balance of different unit sizes which contributes favourably to the supply of dwellings across all tenures. The proposed 188no. dwellings, including 76no. affordable housing units, would help address a shortfall of market and affordable housing delivery and would provide housing in a District where there has been a persistent shortfall in the delivery of five-year housing land supply.

92. It was suggested that the presence of the village green would be a complicating factor as it would need to be de-registered in order for the proposed accesses to be formed. It was noted that the appellant may be able to offer alternative land for a village green in exchange but that the outcome of any process for de-registration was not guaranteed. In this regard, my attention was drawn to several legal judgments on the matter. It was argued that this should reduce the weight given to the provision of housing as there was a question mark over the deliverability of the total number proposed.
93. However, the number of affected dwellings is low, being those accessed from the Protected Lane and would have a very limited impact on the overall number of dwellings provided. Accordingly, I consider that the provision of market and affordable housing, the extension to the Primary School to facilitate its future expansion, the provision of the medical facility, the enhancement to Prior's Wood including 10% extension and measures to secure its longer term management, the new cycleway and pedestrian links, new homes bonus, increased residential spending, the provision of over 4.5 ha of open space and the longer term employment provision from the business park extension are significant public benefits and attract significant weight.
94. Against this, applying section 66(1) of the Act is a matter to which I give considerable importance and weight. In addition, NPPF paragraph 199 states that great weight should be given to an asset's conservation (and the more important the asset, the greater the weight should be). In this case, less than substantial harm would result from the proposal in relation to Warish Hall moated site and remains of Takeley Priory Scheduled Monument and Moat Cottage, a Grade II\* listed building. Paragraph 200 of the NPPF makes clear that these are assets of the highest significance.
95. Furthermore, less than substantial harm would occur to the significance of Hollow Elm Cottage, Goar Lodge, Beech Cottage, The Croft, White House, The Cottage, The Gages, Pump at Pippins and Cheerups Cottage, all Grade II listed buildings. As pointed out above, the parties, in line with the guidance in the Planning Practice Guidance<sup>24</sup> assessed the harm on a spectrum within less than substantial. I have given my assessment above and in certain instances came to different conclusions to both parties where they found no effect on significance (Pump at Pippins) and found a higher level of less than substantial harm to the appellant (Goar Lodge, Beech Cottage and Warish Hall moated site and remains of Takeley Priory Scheduled Monument).
96. Nevertheless, even where I to agree with the appellant and place the less than substantial harm in the case of Goar Lodge, Beech Cottage and Warish Hall moated site and remains of Takeley Priory Scheduled Monument lower down the spectrum, that would still simply serve to differentiate between "substantial" and "less than substantial" harm for the purposes of undertaking the weighted balancing exercise under the NPPF. Considerable importance and great weight would still be given to the desirability of preserving the settings of listed buildings, where those settings would be affected by proposed development and to each asset's conservation, respectively. In which case, despite finding the harm in all instances to be less than substantial, the presumption against granting planning permission remains strong. It can be outweighed by material considerations if powerful enough to do so.

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<sup>24</sup> CD 7.4

97. In this case, taking account of the extent of the shortfall in the five-year housing land supply, how long the deficit is likely to persist, what steps the local planning authority is taking to reduce it, and how much of it the proposed development would meet, and giving significant weight in terms of the extent of that shortfall and how much of it would be met by the proposed development, in addition to significant weight to the public benefits identified above, I do not consider these considerations collectively to be sufficiently powerful to outweigh the considerable importance and great weight I give to paying special regard to the desirability of preserving the settings of the listed buildings and the conservation of all of the identified designated heritage assets.
98. Having applied the balance under NPPF paragraph 202 in respect of all of the affected designated heritage assets, I have found that the public benefits would not outweigh the less than substantial harm arising. This means that under NPPF paragraph 11, d), i, footnote 7, paragraph 202 is a specific policy in the Framework that indicates that development should be restricted. Therefore, whether or not a five-year housing land supply can be demonstrated is not determinative in this appeal, and the presumption in favour of sustainable development is not available to the proposal in hand.

*Other matters*

99. In reaching my decision I have paid special regard to the legal judgments<sup>25</sup> that were drawn to my attention.
100. The appellant drew my attention to several appeal decisions<sup>26</sup> where housing developments were permitted elsewhere in the District and further afield, which it is claimed considered similar matters to this appeal. Be that as it may, I am not aware of the detailed considerations of those Inspectors on these issues, and in any event, I do not consider them to be directly comparable to the site-specific circumstances of this proposal, as set out above.
101. I have also given careful consideration to the Officer recommendation to approve the proposal, as set out in the Report<sup>27</sup>, when it came before the Council's Planning Committee. However, I consider the proposal would be harmful for the reasons given under the main issues above.
102. It is common ground between the parties that the proposal would not harmfully change the living conditions of the occupiers of nearby dwellings, or of future occupiers of the development, in respect of overlooking, overshadowing, noise, air quality and overheating. In addition, I note that in terms of highway safety, ecology, biodiversity, drainage and flood risk, the Council as advised on these matters by Essex County Council Place Services, County Highways Officer, Highways England, National Highways, Thames Water, Essex County Council Ecology and Green Infrastructure, and Natural England raised no objections, subject to suitably worded conditions being attached to any grant of planning permission. From my assessment, I have no reason to disagree although I consider these matters do not add further, or mitigate, harm rather than being in favour of the proposal.

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<sup>25</sup> CDs 9.1 – 9.9 and IDs 20, 25, 27, 32, 33 and 34

<sup>26</sup> CD 8.1 – 8.14

<sup>27</sup> CD 4.2

103. Moreover, while these matters would accord with saved LP Policies GEN1 Access, GEN2 Design, GEN3 Flood Protection, GEN4 Good Neighbourliness, GEN7 Nature Conservation; GEN8 Vehicle Parking Standards; E3 Access to workplaces; ENV1 Conservation Areas; ENV3 Open Spaces and Trees; ENV5 Protection of Agricultural Land; ENV10 Noise Sensitive Development, ENV13 Exposure to Poor Air Quality, ENV14 Contaminated Land, Policy ENV15 Renewable Energy and H10 Housing Mix, these policies do not go to the fundamental principle of the proposal, being concerned in the main with detailed design matters. They do not alter my conclusion on the Development Plan as a whole, as set out in paragraph 78 above.

### **Planning balance and conclusion**

104. While the proposal would not be harmful in terms of the effect on Warish Hall and the associated Moat Bridge Grade I listed building, the Protected Lane, the trees within Prior's Wood and those matters set out above under other matters, and would bring public benefits including those secured by means of the submitted S106 Agreement, I have identified that the proposal would be harmful to the character and appearance of the area in terms of its adverse effect on landscape character and visual impact, would reduce the open character of the CPZ and would cause less than substantial harm to 11 no. designated heritage assets that would not be outweighed by the public benefits. Accordingly, the proposal would conflict with saved LP Policies S7, S8, ENV2 and ENV4, and NPPF paragraphs 130, 174b and 202.

105. Therefore, there are no considerations before me of sufficient weight to outweigh the totality of the harm arising nor the conflict with the development plan as a whole, giving great weight to the heritage assets' conservation.

106. For the reasons set out above, I conclude that the appeal should be dismissed.

*Richard McCoy*

Inspector



## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Paul Brown QC instructed by the Council Solicitor

He called	
Jacqueline Bakker MSc CMLI	Chartered Landscape Architect and a Senior Landscape Architect at GUARDA
Tim Murphy IHBC MCIfA	Historic Environment Manager at Place Services, Essex County Council
Tim Dawes BA (Hons), MRTPI	Planning Director, Planit

### FOR TAKELEY PARISH COUNCIL:

Matthew Dale-Harris of Counsel instructed by Takeley Parish Council

He called	
Bobby Browne, CMLI MALA	Associate at Wynne Williams Associates (Landscape and Character Impacts)
Paul Harris, BSc(Hons) MASP MRTPI	Planning Director at Cerda Planning

### FOR THE APPELLANT:

James Maurici QC instructed by Mr Poole, Weston Homes PLC

He called	
Colin Pullan BA(Hons) DipUP	Head of Urban Design & Masterplanning, Lambert Smith Hampton
Charles Crawford MA(Cantab) DipLA CMLI	Director, LDA Design
Jennifer Cooke BA(Hons) PgDL MA IHBC	Director - Heritage, RPS
Peter Hadfield BSc(Hons) MSc MCIEEM	Director, Ecology Solutions
Richard Hyett MSc, BSc (Hons) MICFor MArborA	Director, Barton Hyett Associates
David Poole, BA(Hons) MA MRTPI	Senior Planning Manager, Weston Homes Plc

### INTERESTED PERSONS:

Richard Haynes BSc	CPRE Essex
Geoff Bagnall	Ward Councillor
Martin Peachy	Local Resident
Dr. Fiona Perrott-Humphrey	Local Resident
Patricia Barber	Parish Councillor
Mike Marriage	STOP The Warish Hall Development Group
Jackie Cheetham	Parish Councillor
Lorraine Flawn	Local Resident
Jim Backus	Parish Councillor



## INQUIRY DOCUMENTS

- 1 LPA Letter of Notification
- 2 Appellant Opening Statement
- 3 LPA Opening Statement
- 4 Rule 6 Party Opening Statement
- 5 Mr Hughes (CPRE) Evidence
- 6 Mr Martin Peachey Evidence
- 7 Dr F.Perrot. Humphry Evidence
- 8 Mr Backus Evidence
- 9 Ms P. Barber Evidence
- 10 Ms Jackie Cheetham Evidence
- 11 Mr G. Bagnall Evidence
- 12 Ms L. Flawn Evidence
- 13 Mr M. Marriage Evidence
- 14 Local Plan News – Timetable Amended
- 15 Defra Guidance – Common Land and town or village greens
- 16 Village Green – VG117
- 17 Application Ref. UTT/19/0604/OP – Decision, Officers Report and Site Plan
- 18 Woodland Trust Comments – 06th May 2022
- 19 Urban Design Presentation [Mr C Pullan]
- 20 Corbett v The Cornwall Council [2021] EWHC 1114 (Admin)
- 21 Letter from Nick Long (SES) to Mr David Poole – 27th June 2022
- 22 Draft Conditions
- 23 Draft S106 Agreement
- 24 CIL compliance schedule
- 25 Milne v Rochdale Metropolitan Borough Council [2001] Env. L.R. 22
- 26 Village Green Authorities
- 27 City & Country Bramshill Limited v SSHCLG [2019] EWHC 3437 (Admin)
- 28 Cost Application on behalf of the Appellant
- 29 Site Visit Map
- 30 Site Visit Itinerary
- 31 Uttlesford Draft LDS 2022
- 32 R. (on the application of Martin) v Folkstone and Hythe DC [2020] EWHC 1614 (Admin)
- 33 Hopkins Homes Ltd v SSCLG [2017] UKSC 37
- 34 R. (on the application of Ewans) v Mid Suffolk DC [2021] EWHC 511 (Admin)
- 35 Council Costs Response
- 36 Appellant Costs Reply
- 37 Closing Submissions on behalf of UDC
- 38 Closing Submissions on behalf of Takeley Parish Council
- 39 Closing Submissions on behalf of the Appellant
- 40 Signed and dated S106 Agreement

CORE DOCUMENTS

<b>Plans &amp; Documents</b>	
CD 1.1	Dwg. No. WH202_05_P_10 - Site Location Plan
CD 1.2	Dwg. No. WH202_05_P_20 - Site Ownership Plan
CD 1.3	Dwg. No. WH202_05_P_500 Rev A - Countryside Protection Zone Site Plan
CD 1.4	Dwg. No. WH202_10_P_10 Rev B - Master Plan - Character Areas
CD 1.5	Dwg. No. WH202_10_P_20 Rev B - Master Plan - General Arrangement
CD 1.6	Dwg. No. WH202_10_P_21 Rev B - Master Plan - Coloured
CD 1.7	Dwg. No. WH202_10_P_30 Rev B - Master Plan - Strategy_Refuse
CD 1.8	Dwg. No. WH202_10_P_31 Rev B - Master Plan - Strategy_Fire/ Emergency
CD 1.9	Dwg. No. WH202_10_P_32 Rev B - Master Plan - Strategy_Hard Landscaping
CD 1.10	Dwg. No. WH202_10_P_33 Rev C - Master Plan - Strategy_Affordable Housing
CD 1.11	Dwg. No. WH202_10_P_34 Rev C - Master Plan - Strategy_Boundary Treatment
CD 1.12	Dwg. No. WH202_10_P_35 Rev C - Master Plan - Strategy_Parking
CD 1.13	Dwg. No. WH202_10_P_36 Rev B - Master Plan - Strategy_Street Lighting
CD 1.14	Dwg. No. WH202_10_P_37 Rev A – Master Plan – Strategy_Cycle
CD 1.15	Dwg. No. WH202_10_P_38 Rev A – Master Plan – Strategy_Traffic Calming
CD 1.16	Dwg. No. WH202_10_P_40 - Existing Site Plan
CD 1.17	Dwg. No. WH202_10_P_50 Rev B - Proposed Site Plan - Sheet 01 of 04 [Commercial Area]
CD 1.18	Dwg. No. WH202_10_P_51 Rev B - Proposed Site Plan - Sheet 02 of 04 [Woodland Neighbourhood]
CD 1.19	Dwg. No. WH202_10_P_52 Rev B - Proposed Site Plan - Sheet 03 of 04 [Woodland Neighbourhood and Rural Lane]
CD 1.20	Dwg. No. WH202_10_P_53 Rev B - Proposed Site Plan - Sheet 04 of 04 [Rural Lane and Garden Village]
CD 1.21	Dwg. No. WH202_30_P_C.10 - Commercial Area Street Scene

CD 1.22	Dwg. No. WH202_30_P_WN.10 - Woodland Neighbourhood Street Scenes A
CD 1.23	Dwg. No. WH202_30_P_WN.11 - Woodland Neighbourhood Street Scenes B
CD 1.24	Dwg. No. WH202_30_P_WN.12 - Woodland Neighbourhood Street Scenes C
CD 1.25	Dwg. No. WH202_30_P_WN.13 - Woodland Neighbourhood Street Scenes D & E
CD 1.26	Dwg. No. WH202_30_P_RL.10 Rev A - Rural Lane Street Scenes A
CD 1.27	Dwg. No. WH202_30_P_RL.11 Rev A - Rural Lane Street Scenes B
CD 1.28	Dwg. No. WH202_30_P_RL.12 Rev A - Rural Lane Street Scenes C
CD 1.29	Dwg. No. WH202_30_P_GV.10 - Garden Village Street Scenes A & B
CD 1.30	Dwg. No. WH202_30_P_GV.11 - Garden Village Street Scenes C & D
CD 1.31	Dwg. No. WH202_55_P_C.10 - Commercial Units Plans
CD 1.32	Dwg. No. WH202_55_P_C.11 - Commercial Units Elevations
CD 1.33	Dwg. No. WH202_55_P_C.20 - Medical Centre Plans & Elevations
CD 1.34	Dwg. No. WH202_55_P_WN.10 – House Type 1A - Plans & Elevations [WN]
CD 1.35	Dwg. No. WH202_55_P_WN.11 – House Type 2B - Plans & Elevations [WN]
CD 1.36	Dwg. No. WH202_55_P_WN12 – House Type 3A - Plans & Elevations [WN]
CD 1.37	Dwg. No. WH202_55_P_WN.13 – House Types 3B V1 - Plans & Elevations [WN]
CD 1.38	Dwg. No. WH202_55_P_WN.14 – House Type 3B V2 - Plans & Elevations [WN]
CD 1.39	Dwg. No. WH202_55_P_WN.15 – House Type 3C V1 - Plans & Elevations [WN]
CD 1.40	Dwg. No. WH202_55_P_WN.16 – Proposed Plans and Elevations - House Type_3C_V2
CD 1.41	Dwg. No. WH202_55_P_WN.17 – House Type 4A - Plans & Elevations [WN]
CD 1.42	Dwg. No. WH202_55_P_WN.18 – House Type 4B-V1 - Plans & Elevations [WN]
CD 1.43	Dwg. No. WH202_55_P_WN.19 – House Type 4B-V2 - Plans & Elevations [WN]

CD 1.44	Dwg. No. WH202_55_P_WN.20 – House Type 4C - Plans & Elevations [WN]
CD 1.45	Dwg. No. WH202_55_P_WN.21 – House Type 5C - Plans & Elevations [WN]
CD 1.46	Dwg. No. WH202_55_P_WN.50 - Flat Block A - Plans & Elevations [WN]
CD 1.47	Dwg. No. WH202_55_P_WN.51 Rev B - Flat Block B - Plans & Elevations [WN]
CD 1.48	Dwg. No. WH202_55_P_WN.52 Rev A – House Type FOG - Plans & Elevations [WN]
CD 1.49	Dwg. No. WH202_55_P_RL.10 Rev A – House Type 4D* - Plans and Elevations [RL]
CD 1.50	Dwg. No. WH202_55_P_RL.11 Rev A – House Type 5A V1 - Plans and Elevations [RL]
CD 1.51	Dwg. No. WH202_55_P_RL.12 Rev A – House Type 5A V2 - Plans and Elevations [RL]
CD 1.52	Dwg. No. WH202_55_P_RL.13 Rev A – House Type 5B* - Plans and Elevations [RL]
CD 1.53	Dwg. No. WH202_55_P_RL.14 Rev A – House Type 5C* - Plans and Elevations [RL]
CD 1.54	Dwg. No. WH202_55_P_GV.10 Rev A – House Type A1 - Plans and Elevations [GV]
CD 1.55	Dwg. No. WH202_55_P_GV.11 – House Type 2B - Plans and Elevations [GV]
CD 1.56	Dwg. No. WH202_55_P_GV.12 – House Type 2C - Plans and Elevations [GV]
CD 1.57	Dwg. No. WH202_55_P_GV.13 – House Type 3B - Plans and Elevations [GV]
CD 1.58	Dwg. No. WH202_55_P_GV.14 – House Type 3C - Plans and Elevations [GV]
CD 1.59	Dwg. No. WH202_55_P_GV.15 – House Types 4C - Plans and Elevations [GV]
CD 1.60	Dwg. No. WH202_55_P_GV.16 – House Type 4D - Plans and Elevations [GV]
CD 1.61	Dwg. No. WH202_55_P_GV.17 – House Type 5A* - Plans and Elevations [GV]
CD 1.62	Dwg. No. WH202_55_P_10 Rev A - Typical Garages - Plans & Elevations
CD 1.63	Dwg. No. WH202_90_P_10 - Recreational Area/ Commercial Area

CD 1.64	Dwg. No. WH202_90_P_11 - Village Park/ Woodland Neighbourhood
CD 1.65	Dwg. No. WH202_90_P_12 - The Green/ Garden Village
CD 1.66	Dwg. No. WH202_90_P_13 - Village Park Aerial
CD 1.67	Updated Application forms - 06.10.21
CD 1.68	Design and Access Statement - June 2021
CD 1.69	Design and Access Statement Addendum - October 2021
CD 1.70	Planning Statement - June 2021
CD 1.71	Planning Statement Addendum - October 2021
CD 1.72	Affordable Housing Statement - Version 2.0 - October 2021
CD 1.73	Statement of Community Involvement - Version 2.0 - October 2021
CD 1.74	Sustainability Statement - Version 2.0 - September 2021
CD 1.75	Air Quality Assessment - May 2021
CD 1.76	Ecological Assessment - October 2021
CD 1.77	Bird Hazard Management Plan - June 2021
CD 1.78	Woodland Management Plan - October 2021
CD 1.79	Arboricultural Impact Assessment - June 2021
CD 1.80	Arboricultural Response to Comments – 28 <sup>th</sup> September 2021
CD 1.81	Arboricultural Technical Note - Airspading Investigation - October 2021
CD 1.82A	Phase 1 - Desk Study and Preliminary Risk Assessments – 7 Acres – 29 January 2021
CD 1.82B	Phase 1 - Desk Study and Preliminary Risk Assessments – Bulls Field – 3 February 2021
CD 1.82C	Phase 1 - Desk Study and Preliminary Risk Assessments – Jacks – 28 January 2021
CD 1.83	Flood Risk Assessment & SuDS Report - September 2021
CD 1.84	Response to ECC SuDS Comments: Warish Hall Farm, Smiths Green, Takeley - 20th September 2021
CD 1.85	Built Heritage Assessment - June 2021
CD 1.86	Letter - RPS (Ref: JAC27188 Warish Hall Farm) Response to Historic England. Dated: 04.10.21
CD 1.87	Letter - RPS (Ref: JCH01209 Warish Hall Farm) Response to Place Services. Dated: 06.10.21

CD 1.88	Environmental Noise impact Assessment – 14 <sup>th</sup> May 2021
CD 1.89	Letter from SES (SP) to Weston Homes (MP) - Ref: Land at Warish Hall Farm, Smith Green, Takeley, (UTT/21/1987/FUL) - 5th October 2021
CD 1.90	Transport Assessment - June 2021
CD 1.91	Transport Assessment Addendum - October 2021
CD 1.92	Residential Travel Plan - October 2021
CD 1.93	Industrial Travel Plan - October 2021
CD 1.94	Energy Statement - October 2021
CD 1.95	Landscape and Visual Impact Assessment - June 2021
CD 1.96	Letter from Allen Pyke (CR) to Weston Homes (MP) Re: Land at Warish Hall Farm, Smiths Green, Takeley (UTT/21/1987/FUL) Dated: 05th October 2021
CD 1.97	Landscape Strategy - June 2021
CD 1.98	Addendum to Landscape Strategy – September 2021
CD 1.99	Archaeology Desk Based Study Assessment - April 2021
CD 1.100	Letter from Coke Gearing (RC) to Weston Hones (SH) – Site to the rear of Parsonage Road, Takeley – 4 <sup>th</sup> November 2020
CD 1.101	Health Impact Assessment - June 2021
CD 1.102	Land at Warish Hall Farm – Education Note - June 2021
CD 1.103	Housing Typologies Document – October 2021
CD 1.104	Biodiversity Net Gain Report – October 2021
CD 1.105	Bat Survey Report – November 2021
CD 1.106	Ecology Solutions Briefing Note - Place Services Comments - 01.11.21
<b>Superseded plans and documents</b>	
CD 2.1	Dwg. No. WH202_10_P_10 - Master Plan - Character Area
CD 2.2	Dwg. No. WH202_10_P_20 - Master Plan - General Arrangement
CD 2.3	Dwg. No. WH202_10_P_21 - Master Plan - Coloured
<b>Key Consultee Responses</b>	
CD 3.1	Historic England Response – 09.07.2021
CD 3.2	Place Services Heritage Response – 04.08.2021
CD 3.3	Historic England Response – 18.10.2021



CD 3.4	Place Service Ecological Advice – 08.07.2021
CD 3.5	Place Service Ecological Advice – 01.11.2021
CD 3.6	Place Service Ecological Advice – 16.11.2021
CD 3.7	Place Service Ecological Advice – 25.11.2021
CD 3.8	Place Service Archaeological Advice – 02.08.2021
CD 3.9	Place Service Archaeological Advice – 25.10.2021
CD 3.10	Place Service Archaeological Advice – 08.11.2021
CD 3.11	Place Service Historic Building and Conservation Advice – 20.10.2021
CD 3.12	Place Service Historic Building and Conservation Advice – 04.08.2021
CD 3.13	Natural England – 29.07.2021
CD 3.14	Natural England – 27.10.2021
CD 3.15	National Trust – 29.07.2021
CD 3.16	Woodland Trust – 26.07.2021
CD 3.17	Woods under threat – 20.10.2021
CD 3.18	ECC Green Infrastructure – 08.07.2021
CD 3.19	ECC Green Infrastructure – 11.10.2021
CD 3.20	ECC Highways – 29.11.2021
CD 3.21	Highways England – 06.07.2021
CD 3.22	Highways England – 29.07.2021
CD 3.23	National Highways – 22.10.2021
CD 3.24	Landscape Officer – 30.09.2021
CD 3.25	Takeley Parish Council – 19.07.2021
CD 3.26	Urban Design Officer Comments – 16.07.2021
CD 3.27	Urban Design Officer Comments – 19.10.2021
CD 3.28	ECC Infrastructure Planning [Education] Comments - 17.08.2021
<b>Determination Documents</b>	
CD 4.1	Decision Notice – Dated: 20.12.2021 (Ref. No. UTT/21/1987/FUL)
CD 4.2	Officer Report – Dated: 29.11.2021 (Ref. No. UTT/21/1987/FUL)
CD 4.3	Planning Committee Report – 15.12.2021
CD 4.4	Uttlesford District Council Planning Committee Supplementary List of



	Representation – 15.12.2021
CD 4.5	Uttlesford Planning Committee transcript minutes – 15.12.2021
CD 4.6	Uttlesford Planning Committee – 15.12.21 – Printed Minutes
CD 4.7	Application for Land East of Parsonage Road - Committee Report – UTT/21/1488/OP – 17.04.22
CD 4.8	Application for Land West of Garnetts - Committee Report – UTT/21/3311/OP
CD 4.9	Application for Land East of Parsonage Road - Committee Report – UTT/21/1488/OP - Updated - 11.05.22
CD 4.10	Designation under Section 62A of the Town and Country Planning Act 1990
<b>Appeal Documents</b>	
CD 5.1	Appellant’s Statement of Case and appendices (January 2022)
CD 5.2	Appellant’s Statement of Common Ground Version 1.0 (January 2022)
CD 5.2A	Final agreed Statement of Common Ground between Council and Appellant
CD 5.2B	Rule 6 Party response to final agreed Statement of Common Ground
CD 5.3	Heritage Statement of Common Ground – RPS (Draft 2022)
CD 5.3A	Final agreed Heritage Statement of Common Ground between Council and Appellant
CD 5.4	Final Statement of Common Ground on character and appearance between the Council and the Appellant (awaited)
CD 5.5	Uttlesford District Council Statement of Case and appendices (March 2022)
CD 5.6	Rule 6 Party Statement of Case – Cerda (March 2022)
CD 5.7	Draft s. 106 obligation
CD 5.8	Final Agreed Statement of Common Ground on Infrastructure
<b>Development Plan Policies</b>	
CD 6.1	Extract of Uttlesford Local Plan Policy S8 – The Countryside Protection Zone
CD 6.2	Extract of Uttlesford Local Plan Policy S7 – The Countryside
CD 6.3	Extract of Uttlesford Local Plan Policy GEN1 – Access
CD 6.4	Extract of Uttlesford Local Plan Policy GEN2 – Design
CD 6.5	Extract of Uttlesford Local Plan Policy GEN3 – Flood Protection

CD 6.6	Extract of Uttlesford Local Plan Policy GEN4 – Good Neighbourliness
CD 6.7	Extract of Uttlesford Local Plan Policy GEN6 – Infrastructure Provision to Support Development
CD 6.8	Extract of Uttlesford Local Plan Policy GEN7 Nature Conservation
CD 6.9	Extract of Uttlesford Local Plan Policy ENV1 – Conservation Areas
CD 6.10	Extract of Uttlesford Local Plan Policy ENV2 - Listed Buildings
CD 6.11	Extract of Uttlesford Local Plan Policy ENV3 – Open Spaces and Trees
CD 6.12	Extract of Uttlesford Local Plan Policy ENV4 – Ancient Monuments and Sites of Archaeological Importance
CD 6.13	Extract of Uttlesford Local Plan Policy ENV5 – Protection of Agricultural Land
CD 6.14	Extract of Uttlesford Local Plan Policy ENV9 -Historic Landscape
CD 6.15	Extract of Uttlesford Local Plan Policy ENV7 - The protection of the natural environment designated sites
CD 6.16	Extract of Uttlesford Local Plan Policy ENV8 - Other landscape elements of importance for nature
CD 6.17	Extract of Uttlesford Local Plan Policy ENV10 – Noise Sensitive Development and Disturbance from Aircraft
CD 6.18	Extract of Uttlesford Local Plan Policy ENV13 – Exposure to Poor Air Quality
CD 6.19	Extract of Uttlesford Local Plan Policy ENV14 – Contaminated Land
CD 6.20	Extract of Uttlesford Local Plan Policy ENV15 – Renewable Energy
CD 6.21	Extract of Uttlesford Local Plan Policy H9 – Affordable Housing
CD 6.22	Extract of Uttlesford Local Plan Policy H10 - Housing Mix
CD 6.23	Extract of Uttlesford Local Plan Policy GEN8 - Vehicle Parking Standards
CD 6.24	Extract of Uttlesford Local Plan Policy E3 – Access to workplaces
<b>National Policy</b>	
CD 7.1	The National Planning Policy Framework - 2021
CD 7.2	Planning Practice Guidance – Appeals
CD 7.3	Planning Practice Guidance – Determining a planning application
CD 7.4	Planning Practice Guidance – Historic Environment
CD 7.5	Planning Practice Guidance – Housing and economic land availability assessment

CD 7.6	Planning Practice Guidance – Housing and economic needs assessment
CD 7.7	Planning Practice Guidance – Housing supply and delivery
CD 7.8	Planning Practice Guidance – Natural environment
CD 7.9	Planning Practice Guidance – Open space, sports and recreation facilities, public rights of way and local green space
CD 7.10	Planning Practice Guidance – Design: process and tools
<b>Appeal Decisions</b>	
CD 8.1	Appeal Decision - Land west of Parsonage Road, Takeley (119 dwellings) – 3234530 & 3234532
CD 8.2	Appeal Decision - Land off Isabel Drive and Land off Stansted Road, Elsenham (up to 99 dwellings) 3256109
CD 8.3	Appeal Decision - Land east of Elsenham, to the north of the B1051, Henham Road (up to 350 dwellings) -3243744
CD 8.4	Appeal Decision - Land south of Rush Lane, Elsenham (up to 40 dwellings) - 3242550
CD 8.5	Appeal Decision - South of the Street, Takeley (8 dwellings) - 3243727
CD 8.6	Appeal Decision - Gt Canfield Road, Takeley (135 dwellings) – 3213251
CD 8.7	Appeal Decision - Land to the south of Smith's Green, Dunmow Road, Takeley, Essex (37 dwellings) - 3235402
CD 8.8	Appeal Decision - Land west of Pennington Lane, Stansted Mountfichet (up to 168 dwellings) - 3271310
CD 8.9	Appeal Decision - Land west of Bonningtons Farm, Station Rd, Takeley (34 dwellings) - 3262826
CD 8.10	Appeal Decision - Land north of Canfield Drive, Takeley (up to 80 dwellings) - 3257122
CD 8.11	Appeal Decision - Land north of Bedwell Road, Elsenham (up to 220 dwellings) - 3274573
CD 8.12	Appeal Decision - Land at Moorthorpe Way, Sheffield - 2 March 2021 - 3258555
CD 8.13	Appeal Decision - Stansted Airport [incl Costs] - 26 May 2021 - 3256619
CD 8.14	Appeal Decision - Land to the South of Braintree Road, Felsted - 11 July 2017 - 3156864
<b>Court Decisions</b>	
CD 9.1	Court Decision - R (Filed Forge) v Sevenoaks [2015] JPL 22
CD 9.2	Court Decision - Bramshill v SSCHLG [2021] 1 WLR 5761

CD 9.3	Court Decision - Catesby v Steer [2019] 1 P&CR 5
CD 9.4	Court Decision - Williams v Powys [2018] 1 WLR 439
CD 9.5	Court Decision - Monkhill Limited V Sectary Of State For Housing, Communities And Local Government [2021] PTSR 1432
CD 9.6	Court Decision - Jones v Mordue [2016] 1 WLR 2682
CD 9.7	Court Decision - Palmer v Herefordshire Council & Anor [2017] 1 WLR 41
CD 9.8	Court Decision - Bedford BC v Secretary of State for Communities and Local Government
CD 9.9	Court Decision - LHPGT v Minister for Housing
<b>Heritage Documents</b>	
CD 10.1	Historic England GPA3 The Setting of Heritage Assets (December 2017)
CD 10.2	Historic England GPA2 Managing Significance in Decision-Taking in the Historic Environment (March 2015)
CD 10.3	Historic England Advice Note 12: Statements of Heritage Significance: Analysing Significance in Heritage Assets
NHLE List Entries:	
CD 10.4	Warish Hall and Moat Bridge (Grade 1, NHLE: 169063)
CD 10.5	Warish Hall moated site and remains of Takeley Priory Scheduled Monument (SM) (Historic England Designation No. 1007834)
CD 10.6	Moat Cottage (Grade II*, NHLE: 1112211)
CD 10.7	Hollow Elm Cottage (Grade II, NHLE: 1112220)
CD 10.8	Goar Lodge (Grade II, NHLE: 1168972)
CD 10.9	Cheerups Cottage (Grade II, NHLE: 1112207)
CD 10.10	Beech Cottage (Grade II, NHLE: 1112212)
CD 10.11	The Croft (Grade II, NHLE: 1168964)
CD 10.12	White House (Grade II, NHLE: 1322592)
CD 10.13	The Cottage (Grade II, NHLE: 1306743)
CD 10.14	The Gages (Grade II, NHLE: 1168954)
CD 10.15	Pump at Pippins (Grade II, NHLE: 1112210)
CD 10.16	Uttlesford Protected Lanes Assessment (ECC) March 2012
CD10.17	Reassessment of Warish Hall Protected Lane (166)



<b>Design Documents</b>	
CD 11.1	National Design Guide
CD 11.2	Guidelines for Landscape and Visual Impact Assessment (GLVIA3) (April 2013) (This is a book, usually parties have a copy, NOT INCLUDED IN ELECTRONIC CDs)
CD 11.3	Essex Landscape Character Assessment (2003) Extract Central Essex Farmlands (B1)
CD 11.4	Landscape Character of Uttlesford District Broxted Farmland Plateau (B10)
CD 11.5	Natural England's National Character Area profile 86 South Suffolk and North Essex Clayland
CD 11.6	Uttlesford Countryside Protection Zone Study - LUC
CD 11.7	Landscape Institute Technical Guidance Note 02/21 - Assessing landscape value outside national designations
CD 11.8	East of England Landscape Typology 'Wooded Plateau Farmlands' (Landscape East 2010)
CD 11.9	Landscape Institute Technical Guidance Note – Visual Representation of Development Proposals (17 September 2019)
CD 11.10	Email from JB (Guarda Landscape) to CC (LDA) - Request for visualisations - 13.04.2022
<b>Ancient Woodland Documents</b>	
CD 12.1	Ancient woodland, ancient trees and veteran trees: advice for making planning decisions 14 January 2022
<b>Proofs of Evidence</b>	
CD 13.1A	Appellant Proof of Evidence on Planning Matters [Mr David Poole] - 24.05.2022
CD 13.1B	Appellant Proof of Evidence on Planning Matters - Appendices [Mr David Poole] - 24.05.2022
CD 13.1C	Appellant Rebuttal Proof on Planning Matters [Mr David Poole] – June 2022
CD 13.2	Appellant Proof of Evidence on Heritage Matters - Appendices [Ms Jennifer Cooke] - 24.05.2022
CD 13.2A	Appellant Rebuttal Proof of Heritage Matters [Mr Jennifer Cooke] – June 2022
CD 13.3A	Appellant Proof of Evidence on Landscape Matters – Volume 1: Text & Appendices [Mr Charles Crawford] – 31.05.2022
CD 13.3B	Appellant Proof of Evidence on Landscape Matters – Volume 2: Figures [Mr Charles Crawford] – 31.05.2022.
CD 13.4	Appellant Proof of Evidence on Arboricultural Matters - Appendices [Mr

	Richard Hyett] - 24.05.2022
CD 13.4A	Appellant Rebuttal Proof on Arboricultural Matters [Mr Richard Hyett] – 10.06.2022]
CD 13.5A	Appellant Proof of Evidence on Ecological Matters - Appendices [Mr Peter Hadfield] - 24.05.2022
CD 13.5B	Appellant Proof of Evidence on Ecological Matters - Appendices [Mr Peter Hadfield] - 24.05.2022
CD 13.5C	Appellant Rebuttal Proof on Ecological Matters [Mr Peter Hadfield] – June 2022
CD 13.6	Appellant Proof of Evidence on Urban Design Matters - Appendices [Mr Colin Pullan] - 24.05.2022
CD 13.7	Local Planning Authority Proof of Evidence on Planning Matters [Mr Tim Dawes] – 24.05.22
CD 13.8A	Local Planning Authority Proof of Evidence on Heritage Matters [Mr Tim Murphy] – 24.05.22
CD 13.8B	Local Planning Authority Proof of Evidence on Heritage Matters - Appendices [Mr Tim Murphy] – 24.05.22
CD 13.9A	Local Planning Authority Proof of Evidence on Landscape Matters [Ms Jaqueline Bakker] – 31.05.22
CD 13.9B	Local Planning Authority Proof of Evidence on Landscape Matters _appendix 1 [Ms Jaqueline Bakker] – 31.05.22
CD 13.9C	Local Planning Authority Proof of Evidence on Landscape Matters – Appendix 2-4 [Ms Jaqueline Bakker] – 31.05.22
CD 13.10	Rule 6 Party Proof of Evidence on Planning Matters [Mr Paul Harris] – 24.05.22
CD 13.11A	Rule 6 Party Proof of Evidence on Landscape Matters [Mr Robert Browne] – 31.05.22
CD 13.11B	Rule 6 Party Proof of Evidence on Landscape Matters – Summary of Proof [Mr Robert Browne] – 31.05.22
CD 13.11C	Rule 6 Party Proof of Evidence on Landscape Matters - Appendices [Mr Robert Browne] – 31.05.22

**Appendix C – Draft Heads of Terms**



1. This Appendix sets out proposed draft 'Heads of Terms' for the planning application. It identifies the proposed financial contributions and other obligations between the relevant parties. The legal Agreement will be pursuant to Section 106 of the Town and Country Planning Act 1990, as amended (the 1990 Act).
2. These draft 'Heads of Terms' reflect pre-application discussions with Uttlesford District Council (UDC) and other stakeholders including Essex County Council (ECC).
3. Parties entering the Agreement will be:
  - i. Uttlesford District Council (UDC);
  - ii. Essex County Council (ECC);
  - iii. Weston Homes;
  - iv. Aegon and,
  - v. HSBC Bank Plc.
4. Regard for the level of contributions should be had to the viability of the scheme overall and the requirements of Regulation 122 of the Community Infrastructure Level (CIL) Regulations.
5. Weston Homes has instructed Julia Berry of Reed Smith LLP, The Broadgate Tower, 20 Primrose Street, London, EC2A 2RS to act on its behalf in drafting the Agreement.
6. Draft Section 106 Heads of Terms include:
  - a) The development will provide Affordable Housing at 40% comprising a split between Social Rented (70%) and Intermediate (30%) (Shared Ownership/Discount Market Sale). 5% of the dwellings are to be provided as M4(3) wheelchair adaptable dwellings.
  - b) Education Contributions, subject to an assessment of school places and need, a financial contribution towards Early Years, Primary and Secondary Education places, including a contribution towards Secondary School Transport.
  - c) Education Lane; Land comprising approximately 1ha of land to accommodate the expansion of Roseacres Primary School for 1FE to 2FE.
  - d) Sustainable Transport Contribution to facilitate the upgrade of bus stop within Priors Green or provision along Dunmow Road/Parsonage Road or as directed by ECC to include real time display and/or of a sum to facilitate the enhancement of cycling infrastructure to include additional priority markings or extension to the Parsonage Road to Stansted Airport Route.
  - e) Health Care Contribution; towards the expansion/ upgrade of facilities within the West Essex CCG, South Uttlesford Primary Car Network.

- f) Ecology and Biodiversity: A contribution towards the visitor and botanical monitoring and mitigation works at Hatfield Forest, for or on behalf of the National Trust. The securing of an extension to and the long-term management of Prior's Wood to comply with Forestry Commission requirements.
  
- g) Provision and Management of Open Space; Open Space to be provided on a phased basis and provision in full prior to final occupation including play provision. Option to transfer to Takeley Parish Council or UDC for long term management, otherwise to ensure long term management trust or appropriate legal entity is provided together with an appropriate reason maintenance or management contributions.
  
- h) Payment of UDCs and ECCs reasonable legal fees.

**Appendix D – Summary of responses to Inspector’s Decision**

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524  
June 2023

Para No.	Text from Inspectors Decision	Response	Relevant Report
1			
2			
3	<i>I heard from TPC that a Heritage Assessment and Audit, dated March 20221, which proposes a Conservation Area based on Smiths Green, was produced in support of the Neighbourhood Plan (NP). However, the NP is at the very early stages of preparation and the parties agreed that as an emerging document undergoing full consultation, it should be afforded very little weight. From my assessment, I have no reason to disagree and have dealt with the appeal on this basis.</i>	<b>There has been no further update on the advancement of the Neighbourhood Plan, nor the Conservations Area. As such this position remains and very little weight is afforded to both of these considerations.</b>	
4	<i>Following the withdrawal of the Uttlesford Local Plan in April 2020 it was confirmed that the Council is at the early stages of preparing its new Local Plan. The Regulation 18 consultation planned to take place in June/July 2022 has been delayed. Given the new plan is in the very early stages of preparation it carries very little weight in this appeal.</i>	<b>In September 2023, it was announced that the Local Plan would be put on hold by Uttlesford District Council (UDC) with the latest revised timetable suggesting that the consultation on the draft Local Plan is due to take place during Summer 2023. As such, the New Local Plan remains in a similar position to that it was in during the Appeal, and therefore very little, if any, weight should be afforded to it in the determination of this application</b>	
5	<i>The development plan for the area includes the Saved Policies of the Uttlesford Local Plan (2000-2011), adopted in 2005. The policies of the Uttlesford Local Plan which are most important to the proposal under this appeal are agreed as Policy S7 - The Countryside, Policy S8 - The Countryside Protection Zone, Policy GEN6 - Infrastructure Provision to Support Development, Policy ENV2 - Development affecting Listed Buildings, Policy ENV4 Ancient Monuments and Sites of Archaeological Importance, Policy ENV7 - The Protection of the Natural Environment -</i>	<b>These policies are also considered the most important to the proposal the subject of this application.</b>	Planning Statement

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
	<i>Designated Sites, Policy ENV8 - Other Landscape Elements of Importance for Nature Conservation, Policy ENV9 - Historic Landscapes and Policy H9 - Affordable Housing. Those of relevance, under paragraph 219 of the National Planning Policy Framework (NPPF), should be given due weight according to their degree of consistency with the Framework, and I return to this matter below.</i>		
6	<i>On 7 February 2022, the Minister of State for Housing gave notice that, under powers conferred by section 62A of the Town and Country Planning Act 1990, Uttlesford District Council would be formally designated in respect of applications for planning permission for major development. The direction, which took effect on 8 February 2022, relates to the quality of making decisions by the Council on applications for planning permission for major development under Part 3 of the Act. The decision on the proposal which forms the subject of this appeal was made before the Designation took effect and is in respect of a decision taken by the Council to refuse planning permission for major development following an Officer recommendation to approve.</i>	<b>UDC are currently still designated under powers conferred by section 62A of the Town and Country Planning Act 1990. Accordingly, this application has been submitted directly to the Planning Inspectorate under those powers. The designation further elucidates the need for housing in the area, which is already established by UDC's currently being unable to demonstrate a 5 year Housing Land Supply (HLS).</b>	
7			
8	<i>A signed and dated Planning Obligation by Deed of Agreement under Section 106 of the Town and Country Planning Act 1990 (S106 Agreement) was submitted by the appellant. This covers a phasing plan, affordable housing, a Prior's Wood Management Plan, public open space provision, Site of Alternative Natural Greenspace provision, a</i>	<b>A draft Heads of Terms can be found appended to the Planning Statement. It is intended that a Section 106 Agreement will be drafted up alongside the Section 62A Application, which will incorporate the requested contributions and other matters set out in the consultee comments received during the application process</b>	Planning Statement

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
	<i>healthcare contribution, a Hatfield Forest contribution, upgrading of the public byway route and pedestrian link provision, submission of a custom build phasing scheme, and the transfer of healthcare facility land. Based on the evidence presented at the Inquiry, I consider that the obligations in the S106 Agreement meet the tests set out in the NPPF and satisfy the requirements of regulation 122 of The Community Infrastructure Levy Regulations 2010. I can therefore give the S106 Agreement significant weight and I return to these matters below.</i>		
9	<i>In the light of the provisions of the S106 Agreement, the Council confirmed that it was no longer pursuing refusal reason 4 in respect of “a failure to deliver appropriate infrastructure to mitigate any impacts and support the delivery of the proposed development”. I have dealt with the appeal on this basis although having regard to the concerns raised in representations from interested parties, I go on to deal with a number of these issues below under Main Issues and Other Matters.</i>	<b>As above, a Draft Heads of Terms has been prepared and is appended to the Planning Statement. As the application progresses, a Section 106 Agreement will be brought together to incorporate relevant and reasonable requests made by consultees in their comments. Accordingly, the 4<sup>th</sup> reason for refusal stated on the Refusal Decision Notice for the Appeal Scheme is not relevant to the present application.</b>	Planning Statement
10	<i>At the Inquiry an application for costs was made by Weston Homes PLC against Uttlesford District Council. This application is the subject of a separate Decision.</i>	<b>The Applicant was awarded partial costs on the basis that despite being included as a reason for refusal, UDC did not call an ecology or arboricultural witness and their landscape witness sought to defend this reason.</b>	
11	<i>All of the main parties agreed that the Council is unable to demonstrate a five year supply of deliverable housing land. The Council’s Monitoring Report for 2020/21 identifies a five-year housing land supply of 3.52 years. In which case, paragraph 11d of the NPPF is engaged.</i>	<b>Although UDC has slightly reduced the deficit, it still remains that they are unable to demonstrate a 5 year HLS and as such the tilted balance is engaged under paragraph 11 of the National Planning Policy Framework (NPPF). According to the 5 Year Land Supply Statement and Housing Trajectory, published in December 2022, at</b>	Planning Statement



WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
		that time, UDC could demonstrate a 4.89 year supply. The Application is supported by a 5 year HLS note produced by Lichfields, which is appended to the Planning Statement. The Lichfield Note suggests that the current level of HLS that UDC can demonstrate is 4.45 years, which although above the 3.52 year position from the Inquiry, is below that most recently identified by UDC, and most importantly below 5 years, and so the tilted balance remains applicable.	
12	<p><i>Against this background, I consider the main issues to be the effect of the proposal on:</i></p> <p><i>i. the character and appearance of the surrounding area, including the Countryside Protection Zone,</i></p> <p><i>ii. the significance of nearby heritage assets including Warish Hall moated site and remains of Takeley Priory SAM, the Grade 1 listed Warish Hall and Moat Bridge, along with other designated and non-designated heritage assets,</i></p> <p><i>iii. the adjacent ancient woodland at Prior's Wood, and</i></p> <p><i>iv. whether any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole or whether specific NPPF policies indicate that development should be restricted.</i></p>	<p>The Inspector specifically stated the majority of significance for each heritage asset is derived from their surviving historical form and fabric which will not be affected by the current proposals. In all cases where harm was identified this was considered to be less than substantial.</p> <p>In heritage terms the Inspector clarified the areas of contention related to the previously proposed development on the eastern edge of Bull Field which has been removed entirely from the current proposals.</p> <p>These issues are also addressed within the proposals of this application and are covered in the various submission documents, along with other planning related matters.</p>	<p>Planning Statement</p> <p>Built Heritage Assessment</p> <p>Archaeological Desk Based Assessment</p> <p>Landscape &amp; Visual Impact Assessment</p>
13			
14	<p><i>Within Uttlesford District, Takeley is one of the largest villages and is considered a 'Key Rural Settlement', the highest order of settlement below Stansted Mountfitchet village and the main towns of Great Dunmow and Saffron Walden. As such,</i></p>	<p>Takeley remains a 'Key Rural Settlement' and as such is a sustainable location for development.</p>	



WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
	<i>Takeley benefits from a number of facilities and services including primary schools, shops and services.</i>		
15			
16	<i>It is proposed to spread the development across 2no. sites, split between three character areas, as follows: Commercial Area (7 Acres); Woodland Neighbourhood/Rural Lane (East and West sections of Bull Field and entrance to Jacks) and Garden Village (Jacks).</i>	<b>This Section 62A Application relates to the Bull Field parcel of the Appeal Scheme. A separate application has been submitted to UDC (Ref. No. UTT/22/2744FUL) and approved for the redevelopment of the 7 Acres parcel. Two separate applications have also been submitted for the Jack’s parcel. The first has been submitted to UDC (Ref. No. UTT/22/3126/FUL) and is yet to be determined, although most consultee comments have now been received. The second application has been made under Section 62A submitted directly to PINS (Ref. No. S62A/2023/0016), which is also yet to be determined. All of these applications have been submitted in light of the Inspectors comments, which set out that the harm identified both from an heritage and landscape perspective, were not of particular concern for these parts of the wider Appeal Scheme. No development at all is proposed in this or any of the other applications for development within Maggots Field nor the eastern part of Bull Field which fronts onto Smiths Green Lane.</b>	Planning Statement Design & Access Statement Built Heritage Assessment Landscape Strategy
17	<i>Saved LP Policy S7 seeks to restrict development in the open countryside directing it to the main urban areas, the A120 corridor and selected Key Rural settlements, including Takeley. The policy has three strands: firstly, to identify land outside of the settlement limits, secondly, to protect the countryside for ‘its own sake’, and thirdly, to only allow development where its appearance protects or enhances the particular character of the</i>	<b>The proposals of this application also fall beyond the settlement limits, and as such there is a breach of Policy S7. The Inspector found that, with the exception of the last strand of the policy, it was a policy that was to be afforded limited weight. However, in regard to the last strand of Policy S7, the Inspector afforded this Moderate weight. As such, the proposals before you have carefully considered the findings of the Inspector on the Appeal Scheme and how it impacted the intrinsic character and</b>	Planning Statement Landscape & Visual Impact Assessment

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
	<i>countryside within which it is set, or if there are special reasons why such development needs to be in that location. It is common ground that the proposal would be located outside the development limits for Takeley as defined by the Uttlesford Local Plan. In this respect, there would be a breach of Policy S7.</i>	<b>beauty of the countryside. The proposed layout has removed any development within Maggots Field and the eastern part of Bull Field which fronts onto Smiths Green Lane. The development line is also set back from the edge of Prior’s Wood. As such, the proposals have sought to recognise and limit the impact on the Intrinsic character and beauty of the countryside, which the last strand of Policy S7 seeks to retain. Any breach of Policy S7 is therefore much less than was the case with the Appeal Scheme.</b>	
18	<i>While neither the appeal site, nor the surrounding area is a valued landscape, within the meaning of paragraph 174(a) of the NPPF, at the District level it is located within the Broxted Farmland Plateau Landscape Character Area (LCA) as defined in the District level Uttlesford Landscape Character Assessment. This is characterised by gently undulating farmland, and large open landscapes with tree cover appearing as blocks on the horizon and is assessed within the LCA as having a moderate to high sensitivity to change.</i>	<b>There have been no changes to the baseline landscape and visual environment of the current application site. The current proposals therefore continue to be located outside of any valued landscape.</b>	Landscape & Visual Impact Assessment
19			
20			
21			
22	<i>The development would be built on the edge of the village, extending the built form into the open countryside. Whilst in overall terms the proposal would have little effect on the wider LCA, in local terms the appeal site is part of an open, tranquil environment, notwithstanding the proximity of the airport and the A120, within which the Prior’s Wood ancient woodland is experienced. For that</i>	<b>The proposals before you will be situated in the Bull Field parcel, which was a part of the Appeal Scheme, albeit the amount of proposed developed area has been reduced significantly within Bull Field. In addition, as noted above, there is no development at all proposed within Maggots Field and the eastern part of Bull Field which fronts onto Smiths Green Lane.</b>	Design & Access Statement Landscape & Visual Impact Assessment

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
	<p><i>reason, it has community value being an “everyday” landscape that is appreciated by the local community. Nevertheless, I agree with the appellant that in terms of that part of the appeal site which comprises 7 Acres and Jacks, it is enclosed by mature boundary planting and existing development. This sense of enclosure means that these areas of the appeal site are largely separate from the wider landscape and the LVIA identified visual receptors. Accordingly, I consider the proposal would have minimal effect in terms of landscape character and visual impact in respect of these areas.</i></p>		
23	<p><i>However, with regard to Bull Field (west and central areas), Bull Field (east), Maggots Field and Prior’s Wood, these areas of the appeal site are of a more open character and make an important contribution to the semi-rural, agrarian nature of the area to the north of the built-up areas of Takeley and Smiths Green. I observed, notwithstanding the enclosure that is created by the boundary planting, that this part of the appeal site forms a strong demarcation between the countryside and the existing urban development to the south. As such, I consider this part of the appeal site shares its affinity with the countryside with which it forms an integral and functional part.</i></p>	<p><b>The Application before you falls within the Bull Field parcel. The proposed development has been designed in light of the Inspectors comments, and therefore the development in Maggots Field and within the eastern section of Bull Field has been removed. The agrarian character is therefore now maintained in these locations, which helps to retain the strong demarcation between the countryside and the existing urban settlement which is currently visible on the southern and western boundaries of Bull Field. The proposed new urban settlement is set back from both Smiths Green Lane and the Woodland with public open space providing a transition between the open countryside and the proposed development.</b></p>	<p>Design &amp; Access Statement                      Planning Statement                      Landscape &amp; Visual Impact Assessment                      Landscape Strategy</p>
24	<p><i>In addition, Bull Field and Maggots Field give a sense of grandeur to Prior’s Wood when viewed from the visual receptors of the Protected Lane and PROWs 48_40, 48_41 and 48_25 (where it joins the Protected Lane), providing it with “breathing</i></p>	<p><b>As set out above, the proposals before you have been formulated having careful regard to the Inspectors comments. The development on the eastern part of Bull Field along Smiths Green Lane and in Maggots Field (referred to previously as the Rural Lane Character Area)</b></p>	<p>Landscape &amp; Visual Impact Assessment                      Built Heritage Assessment</p>



Para No.	Text from Inspectors Decision	Response	Relevant Report
	<p><i>space” in the context of the existing built development evident in the wider area. By introducing development, albeit of a low density in the area of the Protected Lane (the Rural Lane Character Area), the proposal would reduce views of the woodland to glimpsed views between dwellings across formerly open countryside that would become urbanised. This would be most apparent from PROWs 48_41 and 48_25 (where it joins Smiths Green Lane), and the Protected Lane.</i></p>	<p>has been removed. The development has also been set back from the south eastern edge of Prior’s Wood so that the sense of grandeur viewed from the visual receptors of the Protected Lane and PROWs (where they join the Protected Lane) remains. Amenity Greenspace and Natural and Semi Natural Greenspace has been located at the eastern edge of the new urban settlement to soften the proposed urban edge.</p>	
25	<p><i>While I note the existing hedges along the verge of the Protected Lane, I nevertheless consider that the roofs of the proposed dwellings and the new accesses to the development would be apparent from the Protected Lane and the overall built form would be noticeable at night when street lights and other lights from the development would be likely to be seen. In addition, the quality of the experience for users of PROWs 48_40, 48_41 would be diminished, given the proximity of the proposed housing. It would create an urbanised environment through which the footpaths would pass in place of the current agrarian field, within which and from which, views of Prior’s Wood are enjoyed. The urbanising effect of the proposal may be seen from the appellant’s submitted LVIA Views and “before and after” visualisations . By so doing, the intrinsic character of the countryside would be adversely affected by the proposal in conflict with LP Policy S7.</i></p>	<p>As set out above, the proposals before you have removed any development within Maggot’s and within the eastern section of Bull Field, and as such, the development proposals are set back, with a minimum distance of 150m from the Protected Lane to the driveways, with planting mitigation in place, including the reinstatement of historic hedgerows and tree planting. This means that the proposed development would be less likely to be seen from the Protected Lane, with updated visualisations demonstrating that only occasional ridgelines on the eastern edge of the proposed development would be visible once vegetation becomes established. The boundary hedge along Smiths Green Lane will also be maintained to an appropriate height to filter views towards the proposed development.</p> <p>The experience of people using PROWs 48_40 and 48_41 would be retained in the eastern part of the site. There are parts of the PROWs which will fall within the development. The lack of development in Maggots Field and the eastern section of Bull Field means that there are no new proposed accesses from the Protected Lane and</p>	<p>Landscape &amp; Visual Impact Assessment</p> <p>Built Heritage Assessment</p>

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
		the urbanising effect which the Inspector identified with the Appeal Scheme is significantly reduced.	
26	<i>I have given careful consideration to the appellant's landscape and design evidence, including the revisions to the scheme aimed at reflecting the grain of nearby settlements. I also fully appreciate that the landscape to which the appeal site belongs is not rare, or of exceptional quality, and that the site itself has no particular landscape designation. In this sense I agree that the landscape has a moderate value. However, Bull Field and Maggots form part of the wider open countryside to the north of Takeley and Smiths Green, and are an integral part of the local landscape character. They share their affinity with the countryside. This gives this part of the appeal site a high susceptibility to change, despite the presence of nearby urbanising influences.</i>	The proposals of this Application have taken into account these comments from the Inspector and removed any development within the Maggot's Parcel and the eastern part of Bull Field. The proposals thus maintain the open character in the Maggot's parcel and the eastern part of Bull Field which in turn maintains the sense of affinity with the countryside. The remaining area of Bull Field to be developed is considered to have a lower susceptibility to change given the urbanising influence of the existing edge of Takeley and the buffer to the open countryside provided by the undeveloped parcels. At the inquiry the Council's planning witness indicated in cross-examination that "he [and therefore the Council] did not object to the development of Bull Field in its entirety. He accepted the principle of development on that field ...". (see closing of the Appellant at para 82(iii)(b))	Landscape & Visual Impact Assessment
27	<i>In my judgement, the development would introduce an urban form of development that would not be sympathetic to the local character and landscape setting, and notwithstanding the mitigating design measures to create green infrastructure and character areas of varying layouts and densities, in the context of Policy S7 and what I heard, I consider that no special reasons have been demonstrated as to why the development, in the form proposed, needs to be there.</i>	It is common ground that Housing will need to be developed outside of development limits to meet the current demand, due to the lack of existing brownfield sites or other sites within the settlement boundary. This site is closely located and well related to the existing settlement of Takeley, which is a 'Key Rural Settlement'. As such, this Site is the most sustainable option for delivering much needed homes to contribute towards UDCs shortfall in their HLS. The proposals before you have taken a sensitive approach in regard to the introduction of built form to the Site. As set out above, there is no longer any built form within the Maggot's parcel, or the eastern part of Bull Field. This maintains the open character in these locations.	Planning Statement Landscape & Visual Impact Assessment

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
28	<i>Against this background, I consider that the proposal would have a significant adverse effect on local landscape character. It would change the intrinsic rural character of the area by introducing built development into a rural setting thereby severing the connection of Prior's Wood with the open agrarian environment to its south. This would be apparent from the Protected Lane and PROWs identified above in paragraph 24, resulting in a significantly adverse visual impact in conflict with LP Policy S7 and NPPF paragraphs 130 and 174b.</i>	As set out above, the proposals have sought to significantly reduce the adverse effect on the local landscape character, which the Inspector identified in his Decision. Maggot's Field and the eastern part of Bull Field do not contain any development as part of these proposals and as such retain their agrarian character and the rural setting of Prior's Wood is retained to the east. Development is proposed to be set back from the south eastern corner of Prior's Wood, which, along with the removal of development to the east of Bull Field and in Maggot's Field means that the woodland's connection with the open agrarian environment is retained.	Planning Statement  Landscape & Visual Impact Assessment
29	<i>The appeal site is also situated within the Countryside Protection Zone (CPZ) as defined in LP Policy S8. This is an area of countryside around Stanstead Airport within which there are strict controls on new development, particularly with regard to new uses or development that would promote coalescence between the airport and existing development in the surrounding countryside, and adversely affect the open characteristics of the zone.</i>	The application proposals remain within the CPZ. A number of applications have been allowed despite there being conflict with Policy S8. There have also been a number of applications/appeals which have been granted/allowed since the Inquiry and the Inspector's Decision, which demonstrate that the protection of the CPZ is not necessarily sacrosanct. As the Inspector states at paragraph 32 of his Decision, the open countryside between the airport and the A120, along with Prior's Wood would prevent the proposal resulting in coalescence between the airport and existing development. The proposals before you do not change these circumstances and as such these proposals would not promote any coalescence between the airport and existing development in the surrounding countryside.	Planning Statement  Landscape & Visual Impact Assessment
30	<i>The 3 areas which make up the appeal site are large pastoral and agrarian fields. 7 Acres and Jacks have planting around their boundaries while Bull Field has Prior's Wood to the north and is open to the Protected Lane on its eastern flank. While</i>	As set out above, the proposals have been designed so that they are set back from the Protected Lane and the eastern section of Bull Field is retained as open agrarian land. It is agreed that the development site is separated from the airport by the A120, which prevents the	Planning Statement  Landscape & Visual Impact Assessment



WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
	<i>the appeal site contributes to the character and appearance of the countryside to the south of the airport, and the CPZ as a whole, it is separated from the airport by the A120 dual-carriageway and sits in close proximity to development in Takeley, Smiths Green and Little Canfield.</i>	development of the site promoting any coalescence between the airport and the existing development in the surrounding countryside.	
31	<i>My attention was drawn to a number of recent decisions where planning permissions have been granted, both by the Council and on appeal, for housing developments within the CPZ. Nevertheless, taking this proposal on its merits and the site-specific circumstances of the appeal site, in particular Bull and Maggots Fields being within the countryside and open, I consider it would have its character changed by the introduction of new development. In this regard, it would result in a reduction of the open characteristics of the countryside around the airport.</i>	The Appeal Decisions which the Inspector gave due consideration to show that the CPZ is not sacrosanct and there have been a number of decisions approving development within the CPZ (including in the 7 Acres Parcel) since the Inquiry. The Inspector highlighted Bull Field and Maggots Field as the most sensitive parts of the site in terms change in character. As set out above, Maggots Field and the eastern part of Bull Field no longer contain any development and are proposed to be brought forward with their open character retained. Along with the proposed mitigation planting, which will soften the eastern edge of the proposed development, the retained open character of Maggots Field and the east of Bull Field will reduce the impacts which the proposals have on the open characteristics of the CPZ.	Planning Statement  Landscape & Visual Impact Assessment  Landscape Strategy
32	<i>In terms of coalescence with the airport, I acknowledge that the proposal would further increase built development between the airport and Takeley, in a location where the gap between the airport and surrounding development is less than in other areas of the CPZ. However, the open countryside between the airport and the A120, along with Prior's Wood would prevent the proposal resulting in coalescence between the airport and existing development.</i>	It is agreed that the open countryside between the airport and the A120, along with Prior's Wood would prevent the proposal resulting in coalescence between the airport and existing development.	Planning Statement  Landscape & Visual Impact Assessment



WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
33	<i>Against this background, while the factors set out above would serve to reduce the impact, the proposal would nevertheless result in an adverse effect on the open characteristics of the CPZ in conflict with LP Policy S8.</i>	The further changes made to the scheme, including the removal of any development in Maggots Field or in the eastern section of Bull Field would significantly reduce the impact the proposal would have on the CPZ in regards to impact on its open character. It is acknowledged by the Inspector that the open countryside between the airport and the A120, along with Prior's Wood would prevent the proposal resulting in coalescence between the airport and existing development. In regard to maintaining the open characteristics of the CPZ, the removal of development in the areas set out above retains the open character experienced from Smiths Green Lane.	Planning Statement Landscape & Visual Impact Assessment
34	<i>Drawing all of these points together, I consider that there would be conflict with LP Policy S7 in respect of the location of the development and the detrimental effect on local landscape character and visual impact. This would result in the proposal failing to protect or enhance the particular character of the part of the countryside within which it is set. In addition, I find the proposal would conflict with LP Policy S8 in terms of the adverse effect on the open characteristics of the CPZ. However, I will consider the weight to be attributed to this policy conflict later in my decision, turning firstly to address the effect on heritage assets.</i>	The removal of any development in Maggots Field or in the eastern section of Bull Field would reduce the detrimental effect on the local landscape character and visual impact. The removal of development in this area protects and enhances the particular character of the countryside, with the reinstatement of historic hedgerows also incorporated. It also removes the adverse effects on the open character of the CPZ from the most sensitive areas of the Appeal Site.	Planning Statement Landscape & Visual Impact Assessment Landscape Strategy
35			
36			
37			
38	<i>A Heritage Statement of Common Ground (HSoCG) was agreed between the appellant and Uttlesford District Council which identified several heritage assets that would be affected by the proposal as a</i>	The HSoCG identified in all but two cases, the applicant and Place Services (Uttlesford District Council's Conservation Team) agreed on the level of potential harm the Appeal Scheme would have on the relevant heritage	Built Heritage Assessment Archaeological Desk Based Assessment

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
	<i>development within their settings. These are: Warish Hall and Moat Bridge (Grade 1 listed), Warish Hall moated site and remains of Takeley Priory Scheduled Monument (SM), Moat Cottage (Grade II* listed) and Hollow Elm Cottage, Goar Lodge, Beech Cottage, The Croft, White House, The Cottage, The Gages, Pump at Pippins and Cheerups Cottage (all Grade II listed)13 .</i>	<p>assets and where there was a disagreement (Beech Cottage and Goar Lodge only) this was agreed to be in relation to how the levels were calibrated.</p> <p>Due to the removal of any development in Maggots Field and the eastern section of Bull Field, Place Services have agreed during pre-application correspondence that the current proposals would only cause a low level of less than substantial harm to the significance of Goar Lodge and Beech Cottage and the potential for this harm to be at the lowest level of less than substantial harm to Hollow Elm Cottage.</p>	
39	<i>In addition, the Protected Lane, as a non-designated heritage asset, was identified in the HSoCG as being affected by the proposal as a development within its setting. From my assessment of the proposal, I agree with the list of designated and non-designated heritage assets identified by the parties. I deal with each of them below in terms of the effect of the proposed development.</i>	The Inspector found that harm to the Protected Lane would come about as a result of the driveways on Smiths Green Lane. However, as a result of the removal of development in Maggots Field and the eastern section of Bull Field, the impact on the Protected Lane which the Inspector identified is now omitted. Nonetheless it should also be noted that although the Inspector did identify harm to the Protected Lane, he set out that this would not constitute a reason to refuse planning permission.	Build Heritage Assessment
40	<i>Warish Hall and the associated Moat Bridge: its significance derives from its architectural and historic interest in terms of the surviving historic fabric and design detailing from the late 13th century, with architectural features indicative of its age and historic function. The setting is well contained within the moated site given the sense of enclosure created by the surrounding mature trees. The contribution of setting to its significance is high given it is part of a planned medieval</i>	<p>The Inspector found that the Appeal Scheme would have no impact on Warish Hall and the associated Moat Bridge.</p> <p>The current proposals see a reduction in developable area and as such do not change the Inspector’s previous conclusion of no harm</p>	Built Heritage Assessment

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
	<i>moated complex but the setting is very much confined within the immediate area of the hall and bridge. In this regard, I consider that the proposal would have no effect on the significance of this designated heritage asset.</i>		
41	<i>Moat Cottage, The Cottage, The Croft, White House and The Gages: these dwellings are closely grouped within the historic, linear hamlet of Smiths Green. They each are set back from, and sit within, a residential plot with hedgerow boundaries, separated from the road by large open, grass verges. I consider that their significance derives from their architectural and historic interest, dating from around the early 16th century and containing fabric and artistic elements from that time.</i>	<b>Each asset’s significance and setting is described more fully in the Built Heritage Assessment That assessment takes into account the Inspector’s Decision.</b>	Built Heritage Assessment
42	<i>While modern development has intruded into their settings to the east and west, their settings to the north include the open aspect of Bull Field, across its agrarian landscape to Prior’s Wood. This makes a positive contribution to their significance. By introducing development into this area, the proposal would fail to preserve the settings of these listed buildings, thereby detracting from their significance.</i>	<b>The applicant, Place Services and the Inspector considered that the appeal scheme would cause a low level of less than substantial harm to the significance of these heritage assets. This was identified through the appeal process as being derived from the proposed development to the eastern section of Bull Field adjacent to Smiths Green Lane.</b>  <b>The currently proposed placement of the developable area to the western part of the Site means the ‘open aspect of Bull Field across its agrarian landscape to Prior’s Wood’ is maintained. This, combined with, the distance between these designated heritage assets and proposed development, the proposed reestablishment of the historic hedgerows and the curve in Smiths Green lane as well as existing development and mature landscaping</b>	Build Heritage Assessment

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
		<p>means the proposals will not be appreciable from these designated heritage assets.</p> <p>The mitigation measures included in the revised proposals, notably the removal of any proposed development in the eastern part and the use of orientation, density and materials in the character areas means that the current proposed development of the Site is considered to cause no harm to the significance of these heritage assets.</p> <p>This is supported in the pre-application response from Place Services which identifies harm only to Beech Cottage, Goar Lodge and Hollow Elm Cottage (1st December 2022).</p>	
43	<p><i>Hollow Elm Cottage: located at the northern end of Smiths Green, its significance is predominately derived from its historic, architectural and artistic interest, being one of the earliest buildings in the hamlet. Its setting to the east includes Jacks and beyond that the late 20th century infill development of Little Canfield. The wider setting to the north and west is made up of the open fields of Bull and Maggots, and Prior's Wood. To the south is Jacks Lane and the linear historic settlement of Smiths Green.</i></p>	<p><b>The significance and setting is described more fully in the Built Heritage Assessment.</b></p>	<p>Built Heritage Assessment</p>
44	<p><i>In particular, Bull Field, Maggots Field and Prior's Wood, serve to give the setting of this designated</i></p>	<p><b>The applicant, Place Services and the Inspector considered that the appeal scheme would cause a</b></p>	<p>Built Heritage Assessment</p>



Para No.	Text from Inspectors Decision	Response	Relevant Report
	<p><i>heritage asset a sense of tranquillity which overall makes a positive contribution to its significance. The proposal, by introducing development into the area to the north and west, would fail to preserve the setting of this listed building, thereby detracting from its significance.</i></p>	<p>medium level of less than substantial harm to the significance of Hollow Elm Cottage.</p> <p>The landscape proposals show that the eastern most parcel of the Site beyond the reinstated historic hedgerow, west of Smiths Green Lane is to be retained as undeveloped field and will be managed as a hay meadow. As the land will not be subject to intensive agricultural use, the hedgerow margins will also not be subject to regular maintenance requirements and will enable the existing hedgerow to grow up and form an established roadside hedgerow as there currently is on the eastern side of Smiths Green Lane opposite the Site.</p> <p>The mitigation measures included in the revised proposals, notably the removal of any proposed development in the eastern part, the reestablishment of the historic hedgerows to filter views and the use of orientation, density and materials means that the current proposed development is considered to cause the lowest level of less than substantial harm to the significance of Hollow Elm Cottage</p> <p>This is supported in the pre-application response from Place Services which states that <i>'For Hollow Elm Cottage there is the potential for this harm to be at the lowest level subject to a detailed landscaping plan (avoiding the creation of many footpaths etc) (1<sup>st</sup> December 2022).</i></p>	

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
45	<i>Goar Lodge and Beech Cottage: the significance of these heritage assets derives from their historic, architectural and artistic interest as evidenced by the surviving historic fabric. They document the local vernacular through their form, layout, building methods and materials.</i>	Each assets' significance and setting is described more fully in the Built Heritage Assessment	Built Heritage Assessment
46	<i>Their shared setting is made up of the rural character of the large open grassed areas and verges of Smiths Green Lane. This is apparent when travelling south towards Smiths Green in terms of the transition from the agrarian fields of Bull Field and Maggots to the dwellings of the historic hamlet. This gives the historic context of these listed buildings. While there is an intervening hedgerow between them and Bull Field, it is possible to appreciate the historic rural context to their rear and the setting makes a high contribution to their significance. By introducing development into this area, the proposal would fail to preserve the settings of these listed buildings, thereby detracting from their significance.</i>	<p>The removal of the development in Maggot's Field and the eastern section of Bull Field in the current proposals means that the transition from the agrarian fields to these dwellings in Smiths Green will be retained.</p> <p>The rear of these heritage assets is relatively enclosed by the boundary planting at the end of their domestic plot. Any glimpsed views already include the existing development. The current proposed development which is nearest to these assets includes the Rural Edge character area. This includes dwellings of a looser grain and lower ridgeline (including bungalows). The proposed dwellings are also separated from the listed buildings by a green buffer. The existing mid-20th century development of Roseacres is visible in this setting and thus the proposed development will present as a high quality addition to the existing context.</p> <p>Nonetheless it will change the existing context to some extent and thus the proposed development is considered to cause a low level of less than substantial harm to the significance of Goar Lodge and Beech Cottage.</p> <p>This is supported by the pre-application response from Place Services which states that:</p>	Built Heritage Assessment



Para No.	Text from Inspectors Decision	Response	Relevant Report
		<p>The proposed development ...<i>'would be a low level of less than substantial harm to the setting and significance of the adjacent heritage assets [Beech Cottage and Goar Lodge].'</i></p>	
47	<p><i>Cheerups Cottage: the significance of this heritage asset is predominately derived from its historic, architectural and artistic interest as evidenced in some of the surviving historic fabric. As a vernacular building, Cheerups Cottage demonstrates the historic living expectations, building methods and materials available at the time of its construction. Standing at the northern end of Smiths Green, there is both inter-visibility and co-visibility between the listed building and Bull Field which is indicative of the wider historic rural setting which the historic maps show has undergone little change over the centuries.</i></p>	<p>The significance and setting is described more fully in the <b>Built Heritage Assessment.</b></p>	
48	<p><i>This forms the majority of the building's setting, adding a sense of tranquillity and making a very positive contribution to the significance of this designated heritage asset. By introducing development into this area, the proposal would fail to preserve the setting of this listed building, thereby detracting from its significance.</i></p>	<p>The applicant, Place Services and the Inspector considered that the appeal scheme would cause a low level of less than substantial harm to the significance of Cheerups Cottage. This was identified through the appeal process as being derived from the proposed development to the eastern side of Bull Field.</p> <p>The current proposed placement of the developable area to the western part of Bull Field and the reestablishment of historic hedgerows means the setting of Cheerups Cottage is preserved.</p>	<p>Built Heritage Assessment.</p>

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
		This is supported in the pre-application response from Place Services which only identifies harm to Beech Cottage, Goar Lodge and Hollow Elm Cottage (1 <sup>st</sup> December 2022)	
49	<i>Pump at Pippins: the pump is a 19<sup>th</sup> century example of its type. Its significance is drawn from its surviving historic fabric and the evidence it provides of historic living conditions in the area. It stands at the northern end of the hamlet of Smiths Green, close to the junction of Smiths Green and Jacks Lanes, within part of the village green. While there is recent development in the vicinity, the village green and the open countryside to the north and west demonstrate its historic rural context as a focal point of the hamlet. This forms its setting which makes a high contribution to its significance.</i>	<b>Pump at Pippins is somewhat subsumed by mature planting and the telegraph pole in its immediate vicinity. It is set back from the road and is considered to be less of a focal point than perhaps it historically was. What remains of the wider rural context, including Bull Field contributes to its significance in demonstrating its historic function as a pump that served a rural hamlet. However, this contribution is considered to be low.</b>	Built Heritage Assessment.
50	<i>Unlike the parties who agreed that there would be no harm arising from the proposed development to the significance of the pump I consider that by introducing development into this area, the proposal would fail to preserve the setting of this listed building, thereby detracting from its significance.</i>	<b>The impact on the setting of the Pump at Pippins has been substantially reduced as a result of the removal of any built form in Maggots Field or the eastern parcel of Bull Field. As such the proposals before you seek to preserve the setting of the listed buildings. This is supported in the pre-application response from Place Services which only identifies harm to Beech Cottage, Goar Lodge and Hollow Elm Cottage (1<sup>st</sup> December 2022)</b>	Built Heritage Assessment.

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
51	<i>Warish Hall moated site and remains of Takeley Priory Scheduled Monument: this Scheduled Monument includes a priory site situated on high ground, around 2km east of Takeley church. It contains a complete, rectangular moat which is set within a much larger moated enclosure. As a Scheduled Monument it is an asset of the highest significance and is of particular historical and archaeological importance.</i>	<b>The significance and setting is described more fully in the Built Heritage Assessment</b>	Built Heritage Assessment.  Archaeological Desk Based Assessment
52	<i>The setting of this SM makes a strong contribution to its significance. Like other examples of its type in this part of England it was constructed in the rural landscape. Whilst field boundaries in this vicinity have changed over time and the site itself has become enclosed by mature trees, the fundamental agrarian land use in the vicinity of the SM has remained. The link to Prior’s Wood and Bull Field in my judgement, is an important one in terms of setting. It is likely that the Priory had an ownership and functional relationship with the woodland and the SM retains its functional link to these rural features in the surrounding landscape.</i>	<b>Place Services and the Applicant were a little surprised that the Inspector noted visual links to the wood and the field as the heritage asset is surrounded by dense planting and; historic field boundaries (since removed) would have obscured long range views.</b>  <b>The Inspector also referenced the ability to appreciate historic functional links between the wood and the Scheduled Monument but it is unclear how the Scheduled Monument retains this functional association with surrounding landscape features as it is no longer a defensive structure and the original built form within the moated area has been lost. The Grade I listed Warish Hall that now sits within the moated area is a later addition which the Inspector has confirmed would not have been impacted by the proposed development of the appeal scheme. While the surviving landscape features would make some contribution to its historic interest, they do not share a current functional link.</b>	Built Heritage Assessment.  Archaeological Desk Based Assessment

Para No.	Text from Inspectors Decision	Response	Relevant Report
		<p>Nevertheless, the current proposals see the removal of development from Maggot’s Field and the eastern section of Bull Field with dwellings ‘tucked’ behind Prior’s Wood and no longer visible from the Scheduled Monument.</p> <p>There will be no physical impact upon the significance of the Scheduled Monument because of the construction of the proposed development, and therefore there will be no impact upon its intrinsic below ground archaeological interest.</p> <p>The proposed development footprint will be obscured from the monument by the extant Prior’s Wood. This has been demonstrated through the production of wireline images. This revised layout has been formulated with previous Historic England consultation in mind (dated 18th October 2021, ref: P01431365), which specifically stated that they held no objection to development “tucked directly to the south of Prior’s Wood”. Overall, it is considered that the proposed development area makes no contribution to the significance and appreciation of the Scheduled Monument and does not affect the way in which the monument is understood or experienced.</p>	



WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
53	<i>Notwithstanding the built development in the vicinity including the airport, the A120 and the housing beyond Smiths Green to the south, I consider that this asset can be appreciated and experienced from Prior's Wood and Bull Field in terms of the visual and historical functional links, and the tranquillity they provide to the SM. The undeveloped grain of the surrounding landscape character, as part of the asset's setting, makes a positive contribution to its significance.</i>	<b>See comment above and specifically the retention of the undeveloped grain of the setting of the Scheduled Monument.</b>	Built Heritage Assessment.  Archaeological Desk Based Assessment
54	<i>The proposal would erode this character by bringing development closer to the SM within the nearby Bull Field and Maggots Field. The experience of the SM, from its southern ditch, would be adversely altered as the open agrarian landscape would be enclosed by built development. This would be harmful to the significance of the designated heritage asset.</i>	<b>As referenced above, there is no longer any development in Maggots Field or in the eastern section of Bull Field and the open agrarian landscape is retained. Therefore, there will be no harm to the significance of the Scheduled Monument.</b>	Built Heritage Assessment  Archaeological Desk Based Assessment
55	<i>In this regard, I agree with Historic England<sup>15</sup>(?) who in its consultation response noted that it is clear that the SM draws a considerable amount of its significance from its setting. In accepting that the SM is compromised by previous development, it still however benefits from long uninterrupted views southwards towards Prior's Wood and Smiths Green. Against this background, Historic England considered there would be less than substantial harm of a moderate to high degree.</i>	<b>Due to the removal of development within Maggots Field and the east of Bull Field, the uninterrupted views southwards towards Prior's Wood and Smiths Green will remain in-tact. As such the impact here is removed.</b>	Built Heritage Assessment  Archaeological Desk Based Assessment

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
56	<p><i>Warish Hall Road and Non-Designated Heritage Asset: the background to this is set out above in paragraph 19 including how it is referred to locally as Smiths Green Lane. For clarity, it is that section of the lane which runs north from the junction with Jacks Lane towards the A120, adjacent to Bull Field<sup>16</sup>. It is protected due to a combination of features identified in the Uttlesford Protected Lanes Assessment (UPLA). These are Diversity, Integrity, Potential, Aesthetic, Biodiversity, Group Value, and Archaeological Association. I have dealt with a number of these under landscape character and visual impact under the first main issue above (character and appearance), assessing the contribution Smiths Green Lane makes to local landscape character and the effect of the proposal upon it as a visual receptor.</i></p>	<p><b>The significance and setting of the Protected Lane(s) as non-designated heritage assets is described more fully in the Built Heritage Assessment</b></p>	<p>Built Heritage Assessment</p>
57			
58	<p><i>While the parties disputed the extent of the Protected Lane, in my judgement, it encompasses the verges (which are registered as a village green), hedgerows and other features as identified in the evaluation criteria for the Protected Lanes contained in the UPLA. Features such as verges (including those that form part of the village green), hedgerows and ditches/ponds are an intrinsic part of the historical make-up of the Protected Lane and contribute to its significance as a non-designated heritage asset (NDHA).</i></p>	<p><b>The Protected Lane is an historic lane which provides part of the historic context of the hamlet of Smiths Green. Although the road has been resurfaced it is identified as retaining some historic fabric with much of the historic hedgerow having been retained and has been identified as including components which have the potential to contain archaeological evidence. It provides an insight into past communities and their activities through direct experience of the lane’s layout and route. It also retains a wide variety of aesthetic features, notably the wide grassed verges.</b></p>	



WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

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		The northern section of the road beyond the A120, scores a total of 15 against all of the relevant criterion. Whereas the southern section of the road that runs from Jacks Lane northwards to the A120 is one of the highest scoring roads in the assessment with a total of 24. It is considered a non-designated heritage asset.	
59	<i>In the wider sense, the lane has a strong visual and functional relationship with the countryside through which it passes, including Bull Field and Maggots Field making it of historic interest to the local scene and imbuing it with a high level of significance. This countryside environment forms its setting and makes a positive contribution to its significance. The proposal, by introducing development into this agrarian setting would be harmful to the rural setting of the Protected Lane by the way in which it would create new vehicular accesses on to it and would bring built form close to its western verge. The urbanising effect of the proposal on the setting of the Protected Lane and the creation of new accesses across the verges, forming gaps in the hedgerows would both directly and indirectly affect the NDHA in conflict with LP Policy ENV9, which can only be justified if “the need for the development outweighs the historic significance of the site”.</i>	The current proposals remove all development from Maggots Field and the eastern section of Bull Field and consequently no additional driveways are proposed. The landscaping plans include the retention of the field as a hay meadow which will help maintain and protect the existing features of the protected lane. As development is no longer proposed in the agrarian setting of the Protected Lane, these impacts have been mitigated and removed.	Built Heritage Assessment  Landscape & Visual Impact Assessment
60	<i>As may be seen from my conclusion on the first main issue, I consider that in terms of landscape character and visual impact, the overall effect of the form, layout and density of the proposal would be harmful, notwithstanding the mitigation measures to be employed. That conclusion takes</i>	The removal of any development in Maggots Field and the eastern section of Bull Field has reduced the landscape and visual impact of the scheme significantly, with development set back from Smiths Green Lane to reduce the effect on the Protected Lane as a landscape component. As set out above, recent appeal and local	Landscape & Visual Impact Assessment

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
	<i>account of Smiths Green Lane as a landscape component and visual receptor within the overall landscape, noting that in overall terms it has not been demonstrated that the development in the form proposed needs to be there.</i>	decisions granting permission in the CPZ and similar parts of the Countryside clearly demonstrate that the protection of these areas is not sacrosanct, especially in light of the need to deliver housing. The Application Site is closely related to the existing settlement of Takeley, which benefits from a number of amenities. There is also a lack of brownfield sites and undeveloped sites within settlement boundaries to facilitate the delivery of housing. As such, the delivery of housing is clearly required, and the Application Site is appropriate for such development.	
61	<i>In my judgement, the consideration of the effect of the proposal on the Protected Lane as a NDHA is more focussed and deals with that stretch of Smiths Green Lane that has NDHA status. As noted above, the proposal has a number of character areas. One of these “The Rural Lane”, responds to the rural character of the Protected Lane. In this regard the proposal has gone through several revisions and in the area of the Protected Lane would take the form of a low-density development that reflects the established linear form of Smiths Green Hamlet, along Smiths Green Lane. The proposed large family dwellings would be set back from the lane with a series of driveways serving small clusters of dwellings and have an appearance rooted in the local vernacular.</i>	The development which previously comprised “The Rural Lane” has now been removed. Therefore the impact on the Lane has been removed in this regard.	Built Heritage Assessment
62	<i>While there would be harm to the significance of the Protected Lane as a NDHA for the reasons given above, it would be mitigated to some extent by the proposed Rural Lane design characteristics regarding density and layout. This would result in</i>	It is acknowledged that the inspector felt that the design and layout of the development previously proposed in “The Rural Lane”, had mitigated the impact to some extent. However, the current proposals have completely	Built Heritage Assessment  Landscape & Visual Impact Assessment

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
	<i>a moderate level of harm as the historical significance of the lane as an artery through a countryside environment, though diminished, would still be discernible.</i>	removed any development in this area, as such, the impact has also been alleviated.	
63	<i>Taking all of the above together, it is clear that there would be an adverse impact on the significance of several of these designated heritage assets, arising from the failure of the proposal to preserve the settings of the listed buildings and the harm to the significance of the SM arising from development within its setting. This would be in conflict with LP Policy ENV2 which provides that development proposals that adversely affect the setting of a listed building will not be permitted and ENV4 which deals with ancient monuments and their settings.</i>	As set out above, the current proposals of this Application do not include any development in Maggots Field or the eastern section of Bull Field which was where the Inspector derived most of the impact from. Accordingly, this impact/harm which he identified as ‘adverse’ has been reduced to a level which Place Services have agreed in their pre-application response as being at the low end of less than substantial to three Grade II listed buildings. The impact to the significance of the Scheduled Monument has been removed entirely.	Built Heritage Assessment Archaeological Desk Based Assessment
64	<i>In coming to this conclusion, I have had regard to the appellant’s mitigation measures<sup>17</sup> (?). While it is argued that design, layout, density and planting within the proposal would serve to mitigate its effects, I nevertheless consider that the proposal, by introducing an urbanising influence into the open, pastoral setting of these heritage assets, would be to the detriment of their significance, resulting in less than substantial harm.</i>	The harm caused by the current proposals before you has been significantly reduced as a result of the removal of any built form in Maggots Field and the eastern section of Bull Field. As such, the less than substantial harm identified by the Inspector has been reduced to a low level on a minority of listed buildings in the vicinity.	Built Heritage Assessment Archaeological Desk Based Assessment



WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
65	<i>However, given the majority of significance in each case is derived from their surviving historical form and fabric which will not be affected by this proposal, the resulting harm would be less than substantial. The parties agree that the degree of less than substantial harm is of a low level in the case of Moat Cottage, The Croft, White House, The Cottage, The Gages and Cheerups Cottage and medium in the case of Hollow Elm Cottage. From my assessment, I have no reason to disagree.</i>	As set out above, the removal of development in Maggots Field and in the eastern section of Bull Field has significantly reduced the impact resulting from the proposed development. It is agreed with Place Services that the proposals would only impact Hollow Elm Cottage, Goar Lodge and Beech Cottage, and this would be at the low end of less than substantial harm.	Built Heritage Assessment
66	<i>In the case of Goar Lodge and Beech Cottage, for the reasons given above, I agree with the Council that the proposal would result in a medium level of less than substantial harm. However, unlike the parties who agree no effect on the Pump at Pippins18 (?), I consider that the proposal, for the reasons set out above, would cause a medium level of less than substantial harm. In addition, in respect of the Warish Hall moated site and remains of Takeley Priory Scheduled Monument (SM), for the reasons given above, I agree with Historic England and consider the proposal would cause a moderate to high level of less than substantial harm.</i>	As set out above, the removal of the development in Maggots Field and the eastern section of Bull Field has reduced the impact on Beech Cottage and Goar Lodge, which Place Services has agreed in their pre-application feedback, would result in a low level less than substantial harm.  No harm has been identified in regard to the Scheduled Monument and the Pump at Pippins due to removal of development in close vicinity to it.  This was confirmed by Place Services during pre-application discussions.	Built Heritage Assessment  Archaeological Desk Based Assessment
67	<i>In any event, whether or not I accept the appellant's findings regarding the degree of less than substantial harm, under NPPF paragraph 202 this harm should be weighed against any public benefits of the proposal, including securing the asset's optimum viable use and this is a matter I return to below.</i>	We note the reference to paragraph 202 and also paragraph 203 of the NPPF as it relates to non-designated heritage assets. These harm in significantly reduced as is the number of assets that are affected by the current proposals. The significant benefits have been retained or expanded with regard to the Bull Field proposals.	Built Heritage Assessment  Planning Statement

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
68	<p><i>With regard to the Protected Lane (NDHA), LP Policy ENV9 requires the need for the development to be weighed against the historic significance of the site. This is broadly consistent with NPPF paragraph 203 which requires a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. The proposal would indirectly affect the significance of the NDHA by introducing development within its setting and directly by creating accesses onto the Protected Lane. In this case however, while the significance of the heritage asset is of a high level, the scale of the harm would be of a moderate nature, given the revisions to the scheme which has reduced the density of development in the vicinity of the Protected Lane.</i></p>	<p>As set out above, the proposals before you no longer include any development in Maggots Field or the eastern section of Bull Field. As such, there is no longer any access onto the Protected Lane which were previously identified as directly impacting the NDHA. The removal of development in these areas also means that there is no longer any impact on the setting of the Protected Lane. such the scale of harm has been reduced considerable.</p>	<p>Built Heritage Assessment</p>
69	<p><i>Against this is the significant need for housing in an area lacking a deliverable supply of five-year housing land. While the balances under the Policy and the NPPF may differ, I consider that the need for the development would outweigh the significance of the NDHA under LP Policy ENV9 and the moderate harm to significance under NPPF paragraph 203 would be outweighed by the significant benefit of the housing provision arising from the proposal. The proposal therefore, as it relates to the historic interest of the Protected Lane, would not conflict with LP Policy ENV9.</i></p>	<p><b>UDC are still unable to demonstrate a 5 year HLS, as such the tilted balance still applies. In light of the very much reduced impact on the NDHA, this harm would be clearly outweighed by the significant need to for housing. As such the proposal, as it related to the historic interest of the Protected Lane, would not conflict with LP Policy ENV9.</b></p>	<p>Planning Statement Built Heritage Assessment</p>

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
70	<i>Concerns were raised that the proposal would fail to provide a sufficient buffer between the proposal, including the access road, cycleway and dwellings, and the ancient woodland of Prior's Wood. This arises from the Standing Advice issued by Natural England and The Forestry Commission<sup>19</sup> which recommends that a buffer zone of at least 15 metres from the boundary of the woodland should be provided in all cases.</i>	<b>The Inspector sets out at Paragraph 77 that he is content with the proposals for this perspective and this situation has not changed from the Appeal Scheme, therefore it is deemed to be acceptable.</b>	Arboricultural Impact Assessment Landscape Strategy
71	<i>It should be noted that this is a separate concern to that of the effect on Prior's Wood as part of the overall landscape and character and visual impact which I have dealt with above under the 1st main issue. In that regard, I have concluded that the proximity of the development to Prior's Wood in place of an open agrarian field would result in harm to the character and appearance of the area, including Prior's Wood. The concern under this main issue is that trees within the woodland itself would be harmed by the proposed development.</i>	<b>Development has been set back from the southeast corner of Prior's Wood, as such any potential harm here has been reduced.</b>	Landscape & Visual Impact Assessment Landscape Strategy
72	<i>Whilst paragraph 180(c) of the NPPF makes clear that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy, the Council's ecology advice from Place Services raised no issues as regards impacts on Prior's Wood in respect of any resulting loss or deterioration.</i>	<b>The situation here has not changed, and there is no further impact on the woodland being proposed. The impact is being reduced as set out above. As such, the proposals would not result in loss of deterioration of Prior's Wood.</b>	Arboricultural Impact Assessment Landscape Strategy



WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
73	<i>Indeed, it is common ground between the Council and the appellant<sup>20</sup>(?) that there is no objection to the technical design of the proposal as a result of any impact on trees, and no trees within Prior's Wood are to be removed or would be impacted on directly as a result of the proposed route through the buffer. Moreover, mitigation of the impact on Prior's Wood includes the Woodland Management Plan (which is part of the S106 Agreement).</i>	<b>The proposals before you do not result in any impact on trees, and no tree within Prior's Wood is proposed to be removed. No trees will be impacted on directly as a result of the proposed route through the buffer. A Woodland Management Plan has also been submitted and the application also proposes an extension to the woodland. Accordingly the position set out in the Inspector's report does not change.</b>	Arboricultural Impact Assessment Landscape Strategy
74	<i>The parties disputed where the buffer zone should be measured from, with the appellant preferring the trunks of the trees on the outer edge of the woodland and the Council, the outer edge of the ditch. Either way, it is agreed that the 15m buffer would be breached by the cycle way along the southern edge of Prior's Wood and a 35m stretch of the access road connecting 7 Acres and Bull Field (referred to at the Inquiry as the "pinch point"). I heard, as agreed in the SoCG, that no trees within Prior's Wood would be removed or would be impacted on directly as a result of the proposed access road and cycle way route within the buffer, including the road layout at the pinch point.</i>	<b>As set out above, no trees are directly impacted upon by the proposed access through the buffer zone. This position does not change from the appeal proposals and that was deemed agreeable by the Inspector. The extent of the buffer zone is the same or greater than the Appeal scheme.</b>	Arboricultural Impact Assessment Landscape Strategy
75	<i>In this regard, I agree with the Inspector in a previous appeal<sup>21</sup> concerning an issue with strong similarities to this case where that Inspector noted that "some development is proposed within the buffer, through a mixture of road or car parking and re-grading and other landscaping works". In considering the Standing Advice and the recommendation for a 15m buffer, that Inspector found that there was compliance with what is now</i>	<b>As set out above, no trees are directly impacted upon by the proposed access through the buffer zone. This position does not change from the appeal proposals and that was deemed agreeable by the Inspector. The extent of the buffer zone is the same or greater than the Appeal scheme.</b>	Arboricultural Impact Assessment Landscape Strategy

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
	<i>para 180(c) of the NPPF. This was on the basis that “no above ground built form is proposed in that area, such as housing” and “the level of incursion is relatively minor”. I consider that the circumstances of this case are very similar.</i>		
76	<i>That Inspector also accepted that the development that would take place would be contrary to the Standing Advice, as is the situation in the appeal before me, but went on to note that it had “been demonstrated that there would be no incursions into the root protection area”. From my assessment of this proposal, I consider that there would be no incursion into the root protection area and no harm to trees would result, as set out in the SoCG.</i>	<b>As with the Appeal Scheme, this application would not result in incursions into the root protection areas. As such there would be no harm to any trees in this instance.</b>	Arboricultural Impact Assessment Landscape Strategy
77	<i>In addition, I am content from the submitted written evidence and what I heard at the Inquiry, that neither the proposed road or cycleway within the buffer or proposed housing in the vicinity, would lead to indirect effects on the ancient woodland as identified in the Standing Advice, given the proposed measures set out in the Prior’s Wood Management Plan.</i>	<b>Likewise, this situation remains akin to that proposed under the Appeal Scheme. Therefore, the proposed housing, road and cycleway would not lead to any indirect effects on the ancient woodland.</b>	Arboricultural Impact Assessment Landscape Strategy
78			
79	<i>While I have found that the proposal would accord with LP Policies ENV8 and ENV9, and with the submission of the S106 Agreement and withdrawal of refusal reason 4 would not conflict with Policies GEN6, ENV7 and H9, I have nevertheless identified harm arising from the proposal in relation to its location outwith the defined settlement boundary of Takeley, the character and appearance of the</i>	<b>As set out above, the harm arising from the proposal in relation to its location outwith the defined settlement boundary of Takeley, the character and appearance of the area in terms of landscape character and visual impact, the CPZ and the effect on designated heritage assets has been reduced significantly as a result of the removal of development in Maggots Field and within the eastern section of Bull Field. UDC are also still unable to</b>	Planning Statement

Para No.	Text from Inspectors Decision	Response	Relevant Report
	<p><i>area in terms of landscape character and visual impact, the CPZ and the effect on designated heritage assets. In this regard, the proposal conflicts with LP Policies S7, S8, ENV2 and ENV4, which are the policies that go to the principle of the proposed development, and therefore conflicts with the development plan as a whole. Having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should only be granted if there are material considerations which outweigh that conflict.</i></p>	<p><b>demonstrate a 5 year HLS, which engages the tilted balance in favour of granting planning permission. The provision of much needed housing should be given significant weight in this regard. This significant need from housing clearly and demonstrably outweighs the impacts identified which have been reduced significantly from the Appeal Proposals.</b></p>	
80	<p><i>As set out above, paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework, but that due weight should be given to them, according to their degree of consistency with the Framework. In addition, it is common ground that the Council is unable to demonstrate a five-year supply of deliverable housing land. Given that the most up-to-date housing land supply position before the Inquiry was 3.52 years, the shortfall is significant. In the light of NPPF paragraph 11d and associated footnote 8, the absence of a five-year supply means that the policies most important for determining this appeal are deemed to be out-of-date</i></p>	<p><b>Although the deficit has been slightly reduced, UDC are still unable to demonstrate a 5 year HLS, as such the tilted balance remains relevant in this instance. Therefore, as set out by the Inspector, the proposals most relevant to determining this application are considered out-of-date.</b></p>	

Para No.	Text from Inspectors Decision	Response	Relevant Report
81	<p><i>Dealing with each of the policies in turn, Policy S7 is important to the determination of the appeal and is of direct relevance as to whether or not the appeal site would be an appropriate location for development. The parties agreed that the proposal would conflict with the locational strands of the policy, as a result of being outwith the designated settlement boundary. However, the absence of a five-year supply is a situation that has prevailed for a number of years and it is common ground that housing supply will not be addressed until a new local plan is adopted (2024 at the earliest). Although Uttlesford scored well in the 2021 Housing Delivery Test<sup>22</sup>, with a score of 129%, the latest figures published by the Council show that in the next period it fell to 99% and is likely to fall further this year again due to reduced housing delivery in the previous monitoring year 2021/22.</i></p>	<p><b>UDC are still unable to demonstrate a 5 year HLS and a new local plan has not been adopted. It is noted and agreed that the Inspector set out that UDC’s Housing Delivery figure is likely to fall again this year due to reduce housing delivery in the previous monitoring year (2021/22).</b></p>	
82	<p><i>The Council accepts that settlement boundaries must be flexible and that Policy S7 must be breached in order for a sufficient supply of houses to be provided. Against this background, I conclude that the conflict with Policy S7, with reference to it defining land outside of the settlement strategy of the plan, should be accorded limited weight. In reaching this view, I have had regard to the previous appeal decisions cited by the parties that reached contrasting views on the degree of weight to be given to breaches of Policy S7 based on the specifics of each of those particular cases.</i></p>	<p><b>It is still the case that Policy S7 must be breached in order to meet the significant need for housing. As such, it remains that limited weight should be afforded to conflict with Policy S7, with reference to it defining land outside of the settlement strategy of the plan.</b></p>	<p>Planning Statement</p>



WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
83	<p><i>In respect of recognising the intrinsic character and beauty of the countryside, I consider Policy S7, in requiring the appearance of development “to protect or enhance the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there”, is broadly consistent with NPPF paragraphs 130 and 174b. Consequently, having concluded that there would be significant landscape character and visual impact harm arising from the proposal without special reasons being demonstrated as to why the development in the form proposed needs to be there, I give moderate weight to this conflict with the last strand of Policy S7, given it is not fully consistent with the NPPF. In reaching this view, I have had regard to the previous appeal decisions cited by the parties that reach contrasting views on the degree of weight to be given to breaches of Policy S7 based on the specifics of each of those particular cases.</i></p>	<p>As noted above, the proposals before you have removed any development in Maggots Field and the eastern section of Bull Field which were the most sensitive parts of the Appeal Scheme. As such, the proposals impact on the intrinsic character and beauty of the countryside has been reduced significantly. Given that this strand of Policy S7 is broadly consistent with the NPPF, it is afforded moderate weight. Notwithstanding this, the overall conflict with S7 has been reduced significantly as a result of the removal of development in Maggots Field and the eastern section of Bull Field.</p>	<p>Planning Statement</p>
84	<p><i>Turning to Policy S8 and the CPZ, I agree with the Inspector who in appeal ref. APP/C1570/W/19/324372723 concluded that Policy S8 is more restrictive than the balancing of harm against benefits approach of the NPPF, noting that the NPPF at paragraph 170 advises that decisions should recognise the intrinsic character and beauty of the countryside and that the ‘protection’ afforded to the CPZ in Policy S8 is not the same as the Framework’s ‘recognition’.</i></p>	<p>It is agreed that the protection afforded to the CPZ in Policy S8 is not the same as the Framework’s ‘recognition’. And so Policy S8 is not consistent with the provisions of the framework.</p>	

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
85	<p><i>Given the policy is not fully consistent with the NPPF and there is a pressing need for deliverable housing land in the District, I consider that the conflict with LP Policy S8 should be given moderate weight. Again, I have taken account of the previous grants of planning permission within the CPZ both by the Council and at appeal. However, I have reached my conclusion on the weight to be given to the conflict with this policy based on the effect of the proposal on the site-specific circumstances of this case.</i></p>	<p>The need for housing remains as UDC are still unable to demonstrate a 5 year HLS. Accordingly, moderate weight is still afforded to the conflict with Policy S8, albeit this conflict has been very much reduced significantly by the removal of development in Maggots Field and the eastern section of Bull Field.</p>	
86	<p><i>Policies ENV2 and ENV4 both concern the historic environment. In the case of the former, while ENV2 does not contain an assessment as to whether any resulting harm is substantial or less than substantial and does not go on to require a balance of harm against public benefits, I consider that as set out the policy is broadly consistent with the NPPF and reflects the requirements of S66(1) of the Act. Nevertheless, while ENV2 requires that planning permission be withheld where there are adverse effects on the setting of a listed building (in this case there would be less than substantial harm to the significance of several listed buildings), paragraph 202 of the NPPF requires that this harm is weighed against the public benefits of the proposal, and it is that balance that I move onto below.</i></p>	<p>It is accepted that Policies ENV2 and ENV4 remain relevant to the proposals of the current application. As set out within the Built Heritage Assessment, the proposals result in a low level of less than substantial harm and therefore the public benefits of the scheme, which can be attributed significant weight, outweigh this harm.</p> <p>IN terms of the paragraph 202 weighing, the benefits of the scheme particularly those significant benefits for the Bull Field Scheme have been retained whilst the adverse effects have been demonstrably reduced by significantly amending the design.</p>	<p>Built Heritage Assessment Planning Statement</p>



WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
87	<p><i>In the case of the latter, while the policy itself deals with preserving archaeology in-situ, the explanatory text makes clear that the desirability of preserving an ancient monument and its setting is a material consideration in determining planning applications. Insofar as the policy seeks to preserve an ancient monument in-situ when affected by proposed development within its setting, I consider it is broadly consistent with the Framework. In this case, I have found that the proposal would result in less than substantial harm to the significance of a Scheduled Monument. However, as with Policy ENV2, paragraph 202 of the NPPF requires that this harm is weighed against the public benefits of the proposal, and it is that balance that I turn to below.</i></p>	<p><b>As a result of the removal of development in Maggots Field and the eastern section of Bull Field, the impact on the SM has been removed. This position is also agreed by Place Services in their pre-application comments.</b></p>	<p>Built Heritage Assessment Archaeological Desk Based Assessment</p>
88			
89	<p><i>The appellant did claim however that the proposal would bring public benefits by creating a number of jobs during the construction phase, and through the submitted S106 Agreement by securing the provision of affordable housing, a Prior's Wood Management Plan, public open space provision, Site of Alternative Natural Greenspace provision, a healthcare contribution, a Hatfield Forest contribution, upgrading of the public byway route and pedestrian link provision, submission of a custom build phasing scheme, and the transfer of healthcare facility Land.</i></p>	<p><b>The proposals before you maintain a provision of significantly public benefits, namely: the provision of much needed housing; including affordable housing; a Woodland Management Plan, the extension of Prior's Wood, provision of Alternative Natural Green Space, upgrading pedestrian routes through the site and the extension to the primary school to facilitate its future expansion.</b></p>	<p>Planning Statement</p>

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
90	<p><i>In my judgement, employment and economic activity during the construction phase would be temporary benefits and many of the S106 Agreement contributions would be necessary to mitigate the impacts of the proposal on local infrastructure, climate and ecology. In which case they attract limited weight.</i></p>	<p><b>This position is agreed, although it is noted that the scheme also contains a number of significant long-term benefits as asset out above.</b></p>	<p>Planning Statement</p>
91	<p><i>However, the proposed development would provide a mix of private, intermediate and social housing, including bungalows, flats, family dwellings and provision for custom build housing. The dwelling size and tenure mix would provide a balance of different unit sizes which contributes favourably to the supply of dwellings across all tenures. The proposed 188no. dwellings, including 76no. affordable housing units, would help address a shortfall of market and affordable housing delivery and would provide housing in a District where there has been a persistent shortfall in the delivery of five-year housing land supply</i></p>	<p><b>The Application before you provides 96no. much needed homes, which include terraced, detached, semi-detached houses, and apartments. The proposals also include a policy compliant level of affordable housing. This will provide housing in a district where there has been a persistent shortfall in the delivery of five-year HLS.</b></p>	<p>Planning Statement</p>

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
92	<p><i>It was suggested that the presence of the village green would be a complicating factor as it would need to be de-registered in order for the proposed accesses to be formed. It was noted that the appellant may be able to offer alternative land for a village green in exchange but that the outcome of any process for de-registration was not guaranteed. In this regard, my attention was drawn to several legal judgments on the matter. It was argued that this should reduce the weight given to the provision of housing as there was a question mark over the deliverability of the total number proposed.</i></p>	<p><b>As a result of the removal of any development in Maggots Field or the eastern section of Bull Field, there will no longer be any impact on the Village Green.</b></p>	<p>Planning Statement Design &amp; Access Statement</p>
93	<p><i>However, the number of affected dwellings is low, being those accessed from the Protected Lane and would have a very limited impact on the overall number of dwellings provided. Accordingly, I consider that the provision of market and affordable housing, the extension to the Primary School to facilitate its future expansion, the provision of the medical facility, the enhancement to Prior's Wood including 10% extension and measures to secure its longer term management, the new cycleway and pedestrian links, new homes bonus, increased residential spending, the provision of over 4.5 ha of open space and the longer term employment provision from the business park extension are significant public benefits and attract significant weight.</i></p>	<p><b>Following the removal of any development in Maggots Field or the eastern section of Bull Field, there will no longer be any impact on the Village Green. The Application still includes that the provision of market and affordable housing, the extension to the primary school to facilitate its future expansion, the enhancement to Prior's Wood including an extension and measures to secure its longer term management, the new cycleway and pedestrian links, new homes bonus, increased residential spending, and the provision of high quality open space, all of which would attract significant weight as public benefits resulting from the proposals.</b></p>	<p>Planning Statement Design &amp; Access Statement</p>

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
94	<i>Against this, applying section 66(1) of the Act is a matter to which I give considerable importance and weight. In addition, NPPF paragraph 199 states that great weight should be given to an asset's conservation (and the more important the asset, the greater the weight should be). In this case, less than substantial harm would result from the proposal in relation to Warish Hall moated site and remains of Takeley Priory Scheduled Monument and Moat Cottage, a Grade II* listed building. Paragraph 200 of the NPPF makes clear that these are assets of the highest significance.</i>	<b>As set out above, the removal of any development in Maggots Field and the eastern section of Bull Field would reduce the amount of assets impacted by the proposals and the harm arising from the development. Accordingly, and as agreed by Place Services in their pre-application feedback, the proposals would cause no harm to the Scheduled Monument and the Grade II* listed Moat Cottage and would result in a low level less than substantial harm to the Grade II listed Hollow Elm Cottage, Goar Lodge and Beech Cottage only. Any potential harm to the Scheduled Monument has been removed entirely.</b>	Built Heritage Assessment  Archaeological Desk Based Assessment
95	<i>Furthermore, less than substantial harm would occur to the significance of Hollow Elm Cottage, Goar Lodge, Beech Cottage, The Croft, White House, The Cottage, The Gages, Pump at Pippins and Cheerups Cottage, all Grade II listed buildings. As pointed out above, the parties, in line with the guidance in the Planning Practice Guidance<sup>24</sup>(?) assessed the harm on a spectrum within less than substantial. I have given my assessment above and in certain instances came to different conclusions to both parties where they found no effect on significance (Pump at Pippins) and found a higher level of less than substantial harm to the appellant (Goar Lodge, Beech Cottage and Warish Hall moated site and remains of Takeley Priory Scheduled Monument).</i>	<b>The removal of any development in Maggots Field and the eastern section of Bull Field would reduce the amount of assets impacted by the proposals and the harm arising from the development. Accordingly, and as agreed by Place Services in their pre-application feedback, the proposals would result in low level less than substantial harm to Hollow Elm Cottage, Goar Lodge and Beech Cottage only. Any potential harm to the Scheduled Monument has been removed entirely.</b>	Built Heritage Assessment  Archaeological Desk Based Assessment
96	<i>Nevertheless, even where I to agree with the appellant and place the less than substantial harm in the case of Goar Lodge, Beech Cottage and Warish Hall moated site and remains of Takeley</i>	<b>The current proposals preserve the setting of the majority of heritage assets that were considered as part of the Appeal Scheme. This includes those of higher</b>	Built Heritage Assessment  Planning Statement



WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
	<p><i>Priory Scheduled Monument lower down the spectrum, that would still simply serve to differentiate between “substantial” and “less than substantial” harm for the purposes of undertaking the weighted balancing exercise under the NPPF. Considerable importance and great weight would still be given to the desirability of preserving the settings of listed buildings, where those settings would be affected by proposed development and to each asset’s conservation, respectively. In which case, despite finding the harm in all instances to be less than substantial, the presumption against granting planning permission remains strong. It can be outweighed by material considerations if powerful enough to do so.</i></p>	<p><b>designation including, the Scheduled Monument and the Grade II* Moat Cottage.</b></p> <p><b>The current proposals would result in low level less than substantial harm to the grade II listed Hollow Elm Cottage, Goar Lodge and Beech Cottage only. As such the planning balance should be undertaken on this basis.</b></p>	<p>Archaeological Desk Based Assessment</p>
97	<p><i>In this case, taking account of the extent of the shortfall in the five-year housing land supply, how long the deficit is likely to persist, what steps the local planning authority is taking to reduce it, and how much of it the proposed development would meet, and giving significant weight in terms of the extent of that shortfall and how much of it would be met by the proposed development, in addition to significant weight to the public benefits identified above, I do not consider these considerations collectively to be sufficiently powerful to outweigh the considerable importance and great weight I give to paying special regard to the desirability of preserving the settings of the listed buildings and the conservation of all of the identified designated heritage assets.</i></p>	<p><b>UDC are still unable to demonstrate a 5 year HLS, as such the tilted balance remains. As set out above, the proposals before you contain a number of significant benefits which the Inspector gave significant weight to. This should be weighed against the harm to the heritage assets which has been identified at the low end of less than substantial to Hollow Elm Cottage, Goar Lodge and Beech Cottage only. As such, it is clear that with the removal of development in Maggots Field and the eastern section of Bull Field the heritage impact has been significantly reduced, so much so that the benefits of the scheme now clearly outweigh the identified impacts.</b></p>	<p>Planning Statement</p> <p>Built Heritage Assessment</p> <p>Archaeological Desk Based Assessment</p>

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
98	<i>Having applied the balance under NPPF paragraph 202 in respect of all of the affected designated heritage assets, I have found that the public benefits would not outweigh the less than substantial harm arising. This means that under NPPF paragraph 11, d), i, footnote 7, paragraph 202 is a specific policy in the Framework that indicates that development should be restricted. Therefore, whether or not a five-year housing land supply can be demonstrated is not determinative in this appeal, and the presumption in favour of sustainable development is not available to the proposal in hand.</i>	As set out above the harm to the number of designated heritages assets impacted and the level of impact has been reduced significantly by the removal of development in Maggots Field and the eastern section of Bull Field. In weighing this against the public benefits of the scheme which attract significant weight, these will significantly and demonstrably outweigh the reduced harm identified.	Planning Statement
99			
100	<i>The appellant drew my attention to several appeal decisions<sup>26</sup> where housing developments were permitted elsewhere in the District and further afield, which it is claimed considered similar matters to this appeal. Be that as it may, I am not aware of the detailed considerations of those Inspectors on these issues, and in any event, I do not consider them to be directly comparable to the site specific circumstances of this proposal, as set out above.</i>	These Appeal Decisions remain a material consideration as they set out an approach taken on similar or nearby sites, which should be given due consideration.	
101	<i>I have also given careful consideration to the Officer recommendation to approve the proposal, as set out in the Report<sup>27</sup>, when it came before the Council's Planning Committee. However, I consider the proposal would be harmful for the reasons given under the main issues above.</i>	As set out above, the harm resulting from the proposed development has been reduced in comparison to the Appeal scheme, due to the removal of development in Maggots Field and the eastern section of Bull Field. In weighing this reduced harm against the significant benefits from the scheme, it can be clearly demonstrated that these benefits would outweigh the identified harm.	



WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
102	<i>It is common ground between the parties that the proposal would not harmfully change the living conditions of the occupiers of nearby dwellings, or of future occupiers of the development, in respect of overlooking, overshadowing, noise, air quality and overheating. In addition, I note that in terms of highway safety, ecology, biodiversity, drainage and flood risk, the Council as advised on these matters by Essex County Council Place Services, County Highways Officer, Highways England, National Highways, Thames Water, Essex County Council Ecology and Green Infrastructure, and Natural England raised no objections, subject to suitably worded conditions being attached to any grant of planning permission. From my assessment, I have no reason to disagree although I consider these matters do not add further, or mitigate, harm rather than being in favour of the proposal.</i>	<b>The proposals before would not materially change the findings set out by the Inspector that the development would not harmfully change the living conditions of the occupiers of nearby dwellings, or of future occupiers of the development, in respect of overlooking, overshadowing, noise, air quality and overheating. Likewise, the situation remains the same in regard to highway safety, ecology, biodiversity, drainage and flood risk. It is envisaged that the proposals would be deemed acceptable in this regard, subject to suitably worded conditions.</b>	
103			
104	<i>While the proposal would not be harmful in terms of the effect on Warish Hall and the associated Moat Bridge Grade I listed building, the Protected Lane, the trees within Prior's Wood and those matters set out above under other matters, and would bring public benefits including those secured by means of the submitted S106 Agreement, I have identified that the proposal would be harmful to the character and appearance of the area in terms of its adverse effect on landscape character and visual impact, would reduce the open character of the CPZ and would</i>	<b>As set out above, the harm resulting from the proposed development has been reduced in comparison to the Appeal scheme, due to the removal of development in Maggots Field and the eastern section of Bull Field. This reduces the Landscape and Visual Impact of the scheme and also reduces the level of harm on the designated heritage assets. As a result of the removal of development in these areas, the number of designated heritage assets that may be affected by the current proposals has also reduced to three Grade II listed buildings where impact has been identified as sitting at the low end of less than substantial harm. Accordingly,</b>	Planning Statement  Built Heritage Assessment  Landscape & Visual Impact Assessment.

WH202C (Bull Field) – Section 62A Application – Summary of Responses to Appeal Decision Ref. No. APP/C1570/W/22/32911524

Para No.	Text from Inspectors Decision	Response	Relevant Report
	<p><i>cause less than substantial harm to 11 no. designated heritage assets that would not be outweighed by the public benefits. Accordingly, the proposal would conflict with saved LP Policies S7, S8, ENV2 and ENV4, and NPPF paragraphs 130, 174b and 202.</i></p>	<p><b>the conflict with the relevant policies has been reduced. In weighing this reduced harm against the significant benefits from the scheme, it can be clearly demonstrated that these benefits would outweigh the identified harm.</b></p>	
105			
106			

**Appendix E – 5 Year Housing Land Supply Assessment by Lichfields**

Celebrating  
**60**  
years

**Bull Field, Takeley**  
**Five Year Housing Land Supply**  
**Assessment: Uttlesford DC**

Weston Homes

07 June 2023

**LICHFIELDS**

**LICHFIELDS**



## Executive Summary

This report details a review of Uttlesford District Council's ('UDC') latest 'Five-Year Housing Land Supply' ('5YHLS') position. It has been prepared in the context of an application made under S62A submitted by our client – Weston Homes – in relation to their proposed residential development at 'Bull Field, Takeley'.

The Council's latest 5YHLS position – published in December 2022 – is set out in the 'Uttlesford District Council 5-Year Land Supply Statement and Housing Trajectory' Published in December 2022. It sets out that the Council's supply over the five-year period from 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2027 is 4.89 years. Consequently, the starting point for this application is that the Council cannot demonstrate a 5YHLS; thus Paragraph 11(d) of the NPPF is engaged. The main purpose of this report is therefore to determine whether the shortfall stated is robust when assessing the Council's five-year requirement and supply against relevant policy and guidance.

## Housing requirement

The relevant Statutory Development Plan for the site comprises the Uttlesford Local Plan (2005). This plan is now significantly out of date, has not been reviewed and found not to need updating, and as a starting point many of its policies are likely to be considered out-of-date with reference to their consistency with the NPPF and age. In this context, the Council has correctly identified the standard method as being the basis for assessing its 5YHLS; however, we have amended the requirement slightly to reflect the 'current year' and latest affordability ratios when calculating local housing need (i.e. using 2023 for the base year). This has the effect of slightly reducing the annual requirement.

As a result, we conclude the Council's five-year requirement is 3,591 homes given our amendments to the annual requirement.

Lichfields Review of Uttlesford DCs Five-Year Requirement

	Uttlesford DC	Lichfields
Annual Requirement	693	684
Buffer	5%	5%
Total Five-Year Requirement	3,638	3,591

Source: Table 4, 'Uttlesford Five-Year Housing Land Supply Position Statement'

## Housing supply

When reviewing the Council's supply, we consider it can only demonstrate a supply of 3,195 homes from deliverable sites. This is compared to the Council's stated supply of 3,560 homes. The key issue we have identified is a lack of clear evidence on larger sites with outline permission that the Council expect to come forward.

## Lichfields Review of Uttlesford DC's Deliverable Supply

	Uttlesford DC	Lichfields	Difference
Sites >5 dwellings with planning permission	2,832	2,832	0
Under construction	1,303	1,221	-82
With planning permission (full or reserved matters covering whole site)	476	476	0
With outline permission with part(s) covered by reserved matters	955	654	-223
With outline permission only	98	38	-60
Adjusted figure for communal establishments (C2)	92	92	0
Small sites <6 dwellings (years 1-3 only)	408	408	0
Windfall allowance (years 4-5 only)	228	228	0
<b>Total Five-Year Supply</b>	<b>3,560</b>	<b>3,195</b>	<b>-365</b>

Source: 'Uttlesford Five-Year Housing Land Supply Position Statement' & Lichfields Analysis

## Five-year housing land supply position and significance of shortfall

On the basis of our amends, we conclude that Uttlesford can only demonstrate a supply of 4.45 years. The degree of shortfall is 0.55 years which we consider should be given significant weight. The weight to this shortfall is enhanced by local factors, including: including the Council's recent lower rates of housing delivery with a predicted HDT 2022 result of 58%, the fact that the Local Plan is severely out-of-date, the Council being placed into 'special measures' by the Government, and the increasing need for affordable homes as shown by the housing waiting listing increasing from 895 persons in January 2016 to 1,299 persons in April 2022; an increase of 45%. Weston Homes' development would deliver a further 39 affordable homes to help meet this need.

## Lichfields Review of Uttlesford DCs Five-Year Land Supply Position

	Uttlesford DC	Lichfields
Total Five-Year Requirement	3,638	3,591
Supply	3,560	3,195
Five Year Housing Supply	4.89 years	4.45 years
Shortfall / Surplus	-78	-396

Source: 'Uttlesford Five-Year Housing Land Supply Position Statement' & Lichfields Analysis

Finally, we consider that the proposed amendments to policy set out in the Government's 'Levelling-up and Regeneration Bill: reforms to national planning policy' consultation should be afforded very limited weight in the context of this application. Nonetheless, should these proposals be adopted into policy, our analysis has shown that Uttlesford would not be able to demonstrate a 5YHLS and the titled balance would be engaged.

# Contents

<b>1.0</b>	<b>Introduction</b>	<b>1</b>
	Purpose and scope	1
	Context and relevance of five-year housing land supply	1
	Uttlesford DCs: Latest 5YHLS	1
	Structure	2
<b>2.0</b>	<b>Relevant Policy and Guidance</b>	<b>4</b>
	Development plan	4
	National Planning Policy Framework	4
<b>3.0</b>	<b>Assessment of the Council’s Housing Requirement</b>	<b>7</b>
	Basic five-year requirement	7
	Shortfall of supply	8
	Appropriate buffer	8
	Lichfields assessment	9
<b>4.0</b>	<b>What Constitutes a Deliverable Site?</b>	<b>11</b>
<b>5.0</b>	<b>Deliverability Assessment of the Council’s Supply</b>	<b>14</b>
	The Council’s supply	14
	Deliverability review	15
	Lichfields Position on five year Supply	17
<b>6.0</b>	<b>Relevance of 5YHLS to This Application</b>	<b>20</b>
	The ‘titled balance’	20
	Significance to the degree of the shortfall	20
<b>7.0</b>	<b>Proposed Changes to the NPPF</b>	<b>22</b>
<b>8.0</b>	<b>Conclusions</b>	<b>24</b>

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## 1.0 Introduction

### Purpose and scope

- 1.1 Lichfields has prepared this report on behalf of our client, Weston Homes, in relation to its proposed residential development at ‘Bull Field, Takeley’. An application, made under s62A Town and Country Planning Act 1990, has been submitted with the following development description:

*“Access to/from Parsonage Road between Weston Group Business Centre and Innovation Centre buildings leading to: 96 dwellings on Bull Field, south of Prior’s Wood, including associated parking, landscaping, public open space, land for the expansion of Roseacres Primary School, pedestrian and cycle routes to Smiths Green Lane together with associated infrastructure.”*

- 1.2 The purpose of this report is to consider what Uttlesford DC’s current five-year housing land supply (‘5YHLS’) position is to inform the applicant’s case. The report reviews the Council’s latest 5YHLS evidence and considers the weight that should be attributed to the shortfall identified given the Council acknowledges it cannot demonstrate a 5YHLS at present.

### Context and relevance of five-year housing land supply

- 1.3 Paragraph 74 of the National Planning Policy Framework (‘NPPF’) (2021) requires Local Planning Authorities (‘LPAs’) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing. Where an LPA cannot demonstrate a 5YHLS, NPPF Paragraph 11(d) is engaged, whereby LPAs should:

*“grant permission unless... 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”.*

### Uttlesford DCs: Latest 5YHLS

- 1.4 The Council’s latest position – published in December 2022 – is set out in the ‘Uttlesford District Council 5-Year Land Supply Statement and Housing Trajectory’ (‘the report’). This report details the supply over the five-year period from 1<sup>st</sup> April 2022 from 31<sup>st</sup> March 2027; with a stated supply of 4.89 years<sup>1</sup>.

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<sup>1</sup> Paragraph 1, ‘Uttlesford District Council 5-Year Land Supply Statement and Housing Trajectory’

Table 1.1 Uttlesford DC's Stated 5YHLS Position

Uttlesford DC 5YHLS	
Five-Year Requirement	3,638
Deliverable Supply	3,560
Five-Year Housing Land Supply	4.89 years
Shortfall / Surplus	-78 homes

Source: Table 4, 'Uttlesford Five-Year Housing Land Supply Position Statement' (2022)

- 1.5 Consequently, the Council is unable to demonstrate a 5YHLS and this application should be determined with Paragraph 11(d) – the so called 'tilted balance' – engaged via footnote 8 of the National Planning Policy Framework ('NPPF') 2021. This approach was confirmed as part of a recent approval for an application made under S62A at 'Land East of Station Road' (ref. S62A/2022/0012).
- 1.6 In this context, this Report considers whether the Council's current stated 5YHLS position is robust when assessing the housing requirement and the deliverability of the supply. It should be noted that at a recent appeal at Helena Romanes School the Inspector concluded that the supply was 'closer to the 4 years invited by the appellant' in line with the appellant's assessment (appeal ref. 3296064).
- 1.7 Notwithstanding, while the Council cannot demonstrate a 5YHLS – meaning policies most important for determining the application are out-of-date – as a starting point, many policies are likely already out-of-date irrespective of the 5YHLS position. This is because the Council's latest plan was adopted in 2005 (with a housing requirement to 2011) and it has been concluded policies most important for determining housing applications are out-of-date, including the settlement boundary policy (S7) which previous appeals have concluded should only be given moderate weight<sup>2</sup>.
- 1.8 Policy S7 is intrinsically linked to development limits, which were tightly defined to accommodate an out-of-date housing requirement that expired in 2011. As such, it is contended that they were never intended to support the delivery of current housing requirements and have the effect of unreasonably restraining housing development at a time when requirements are not being met. The result is a clear tension with the objective set out at paragraph 60 of the NPPF of significantly boosting the supply of homes. This has been reaffirmed in the Appeal Decisions made in relation to the development sites at Rush Lane (Ref. No. APP/C1570/W/19/3242550) and the Land east of Elsenham, north of the B1051/Henham Road (Ref. No. APP/C1570/W/19/3243744).

## Structure

- 1.9 This Report is structured as follows:
- **Section 2.0** sets out an overview of relevant policy and guidance;
  - **Section 3.0** sets out a review of the Council's housing requirement for 5YHLS;
  - **Section 4.0** details a review of what we consider constitutes a deliverable site in light of the latest policy, guidance, and appeal decisions;
  - **Section 5.0** details our review of the Council's supply;

<sup>2</sup> For example, see appeal ref. 3282098. Land East of St Edmunds Lane, St Edmunds Lane, Great Dunmow



- **Section 6.0** details the relevance of the Council's 5YHLS position for this application;
- **Section 7.0** considers the implications of the draft amendments to 5YHLS as proposed in the NPPF; and
- **Section 8.0** details our conclusions.

## 2.0 Relevant Policy and Guidance

2.1 This section presents the relevant sections of the Uttlesford District Local Plan and NPPF pertinent to the determination of a 5YHLS.

### Development plan

2.2 The Statutory Development Plan for the site comprises the Uttlesford Local Plan (2005). This plan is now significantly out of date and as a starting point many of its policies are agreed to be considered out-of-date with reference to their consistency with the NPPF and age.

2.3 Uttlesford District Council is in the process of developing a new Local Plan (having previously withdrawn a draft plan at examination in 2020). A Reg.18 consultation is expected to take place in Summer 2023 with adoption then taking place around October 2025. The Council notes the Reg.18 consultation will be considering a ‘draft Local Plan’ – which follows on from an ‘Issues and Options’ consultation held back in 2020.

### National Planning Policy Framework

#### Adopted

2.4 The NPPF (2021) states that the presumption in favour of sustainable development should be at the heart of plan-making and decision-taking. For decision-taking, Paragraph 11 of the NPPF is clear that this means:

*“c. approving development proposals that accord with an up-to-date development plan without delay; or*

*d. where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this 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.”*

2.5 Footnote 8 of the NPPF confirms that circumstances where policies are ‘out-of-date’ *“includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites for applications for housing development.”*

2.6 The NPPF (2021) also states that:

*“... Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies<sup>38</sup>, or against their local housing need where the strategic policies are more than five years old<sup>39</sup>...” (Paragraph 74)*

2.7 A framework for assessing the deliverability of sites is set out at Appendix 1.

## Emerging

- 2.8 In early December 2022, the Government published a Written Ministerial Statement ('WMS')<sup>3</sup>. This set out that changes would be made to the NPPF and specifically the test of 5YHLS. While this WMS is a material consideration, the WMS is merely an expression of what policy might be subject to a future consultation rather than what current policy is. Consequently, the starting point for decision making remains extant policy which should continue to be implemented. This position is confirmed in a note issued to all Planning Inspectors by the 'Planning Inspectorate' ('PINS')<sup>4</sup>.
- 2.9 Since the WMS, the Government published a draft NPPF for consultation in late December 2022 alongside a series of questions<sup>5</sup>. The consultation ended on 2<sup>nd</sup> March 2023 with the Government aiming to review the responses and publish a revised NPPF in 'Spring 2023'. Within the revised NPPF, changes are proposed – as trailed by the earlier WMS – to the requirement to demonstrate a 5YHLS, the calculation of it, and other relevant policy including the Housing Delivery Test.
- 2.10 While the recent consultation is capable of being a material consideration in the determination of planning applications and appeals, we consider that it holds very limited weight in decision-making at present, for the reasons set out below:
- 1 The proposed amendments to planning policy, including those concerning 5YHLS, are high-level without the benefit of accompanying changes to the planning practice guidance on how these policies should be applied.
  - 2 As such, no conclusions can be reached on how these would impact an LPA's 5YHLS position, until the full guidance is available for review. For example, if the removal of the buffer was implemented, this would likely need to correspond with amendments to the guidance concerning evidence necessary to demonstrate deliverability, in order to ensure that future land supply is capable of meeting housing requirements.
  - 3 The proposed changes to the NPPF are at the early stages of consultation, they are controversial and have generated a high volume of responses (c.26,000) including objections that the Government will need to address and resolve, including through potential re-drafting and/or guidance. As such, attributing the proposed amendments very limited weight is appropriate. This is consistent with the principles set out in paragraph 48 of the NPPF that relate to emerging Local Plans; these allow LPAs to give weight to emerging policies based on the stage of preparation of the emerging plan, and the extent to which there are unresolved objections to relevant policies<sup>6</sup>.
- 2.11 Although we consider the outlined proposals to currently hold very limited weight ahead of any revised policy being adopted, in Section 7.0 we consider the proposed amendments in

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<sup>3</sup> [REDACTED]  
<sup>4</sup> 'PINS Note 14/2022'.

<sup>5</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1126647/NPPF\\_July\\_2021\\_-\\_showing\\_proposed\\_changes.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1126647/NPPF_July_2021_-_showing_proposed_changes.pdf) & <https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy>

<sup>6</sup> As evidenced by responses to the 'Levelling Up, Housing and Communities Committee' held on 24<sup>th</sup> April 2023 by Rachel Maclean MP (Minister of State (Housing and Planning) at Department for Levelling Up, Housing and Communities) and Emran Mian (Director General, Regeneration at Department for Levelling Up, Housing and Communities)

more detail in the context of how they might affect Uttlesford's 5YHLS position during the determination of this application.

### 3.0 Assessment of the Council’s Housing Requirement

3.1 The Council calculates its current five-year requirement as 3,638 homes. When assessing this figure against adopted policy in the development plan, national policy and national guidance we consider that figure should now be amended accounting for the Council’s latest local housing need.

#### Basic five-year requirement

3.2 The NPPF (2021) states that:

*“Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies<sup>38</sup>, or against their local housing need where the strategic policies are more than five years old<sup>39</sup>” (Paragraph 74)*

3.3 Expanding on the above, Footnote 39 states that in circumstances where a local plan is more than five-years old but has been reviewed and found not to need updating the local plan requirement can continue to be used. It also confirms that local housing need should be calculated using the standard method set out in national planning guidance (‘PPG’).

3.4 In the specific case of Uttlesford, the Council’s Local Plan was adopted considerably more than five-years ago and has not been reviewed or found not to need updating. Therefore, the Council has correctly identified that the basis for assessing its 5YHLS is its local housing need figure calculated using the standard method.

3.5 The Council states its local housing need figure is 693 dwellings per annum (‘dpa’). This figure was arrived at using a 2022 base year and the latest median affordability ratios at the time of the report’s publication. In accordance with the PPG (ID: 2a-004) the latest inputs to the standard method should be used when calculating local housing need. At the time of the Council’s 5YHLS positions publication the Council did use the latest inputs. However, the inputs have now changed: i.e. the base year should now be 2023 and the latest affordability ratios (published March 2023) should be used. This lowers the Council’s local housing need marginally to 684 dpa<sup>7</sup>; albeit this is a capped figure. For reference, the uncapped local housing need figure is 769 dpa.

Table 3.1 Basic Annual Requirement

	Uttlesford DC	Lichfields
Annual Requirement	693 dpa	684 dpa
Source	Standard Method (2022 Base Date, 2021 Affordability Ratio)	Standard Method (2023 Base Date, 2023 Affordability Ratio)

Source: ‘Uttlesford Five-Year Housing Land Supply Position Statement’ (2022) & Lichfields Analysis

<sup>7</sup> The Long Melford appeal (ref. 3214377) Inspector confirms the use of the latest inputs to the standard method (see IR 429 to 430)

## Shortfall of supply

3.6 If a shortfall has accrued, the PPG states that this should normally be added on to a five-year requirement in full. However, in situations where the standard method is used no undersupply should be added (PPG ID: 68-031). This is because its methodology already includes an ‘affordability uplift’ which accounts for situations where past undersupply has resulted in changes to the affordability ratio.

## Appropriate buffer

3.7 The Council’s latest 5YHLS position is not a formal ‘Annual Position Statement’; therefore, the appropriate buffer is either a default 5% or a 20% depending on the Council’s ‘Housing Delivery Test’ (‘HDT’) result. The Council’s latest HDT result – dated 2021, published January 2022 – is 99%, meaning the appropriate buffer to apply is 5%.

3.8 Looking to the next HDT publication, the Government – as part of the recent NPPF consultation – stated that while it does intend to publish the 2022 HDT results, they are seeking views on how to address the implications arising from it<sup>8</sup>. Notwithstanding, projecting what that result might be, Uttlesford delivered only 208 dwellings in 2021/22.<sup>9</sup> Therefore, we expect its next HDT measurement for 2022 to drop to 58%, as shown in Table 3.2 below.

Table 3.2 Projected 2022 Housing Delivery Test Results

Number of Homes Required			Total number of homes required	Number of homes delivered			Total number of homes delivered	Housing Delivery Test Result 2022
2019-20	2020-21	2021-22		2019-20	2020-21	2021-22		
654	470	693	1,817	507	340	208	1,055	58%

Source: HDT Results 2021 (gov.uk), Live Table 122 on Housing Supply (gov.uk) & Lichfields analysis

3.9 Assuming the Government apply the HDT implications as normal, it is likely that when the 2022 HDT results are published, a 20% buffer will be required. Furthermore, a measurement of this level (i.e. below 75%) means Paragraph 11(d) would also be engaged via this route. While this is already the case, given the lack of 5YHLS and age of the adopted planning policy, an HDT measurement at this level would reaffirm this position and require the Council to put in place a housing delivery action plan.

3.10 Nonetheless until the 2022 HDT results are published, a 5% buffer is appropriate for the District.

<sup>8</sup> See Paragraph 23 and Question 21 – <https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy>

<sup>9</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1119761/Live\\_Table\\_122.odt](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1119761/Live_Table_122.odt)



## Lichfields assessment

- 3.11 Taking together the above amendments, the Council’s current five-year requirement is 3,591 homes. This is calculated using the latest standard method figure and a 5% buffer.

Table 3.3 Lichfields Review of Uttlesford DCs Five-Year Requirement

	Uttlesford DC	Lichfields
Annual Requirement	693	684
Shortfall	~	~
Buffer	5%	5%
Total Five-Year Requirement	3,638	3,591

Source: ‘Uttlesford Five-Year Housing Land Supply Position Statement’ (2022) & Lichfields Analysis

- 3.12 The impact of our changes to the requirement is that the Council’s stated 5YHLS should at most be 4.96 years: a shortfall of 31 homes. This is without any amendments to the Council’s deliverable supply as shown in Table 3.4.

Table 3.4 Amended Lichfields DC 5YHLS Position (Based on Amends to Requirement Only)

	Uttlesford DC	Lichfields
Five-Year Requirement	3,638	3,591
Deliverable Supply (based on Council assessment)	3,560	3,560
Five-Year Housing Land Supply	4.89 years	4.96 years
Shortfall / Surplus	-78	-31

Source: ‘Uttlesford Five-Year Housing Land Supply Position Statement’ (2022) & Lichfields Analysis

## 20% buffer sensitivity test

- 3.13 As an illustrative test, the below sets out the impact of the 20% buffer on the Council’s requirement and overall supply position (based on the Council’s supply figures). Applying the 20% buffer would increase the five-year requirement from our revised figure of 3,591 homes to 4,104: resulting in the Council only being able to demonstrate a supply of 4.34 years (a shortfall of 544 homes) (based on the Council’s own supply figures).

Table 3.5 Uttlesford District’s Five-Year Requirement (20% buffer)

	Uttlesford District Council	Lichfields
Basic Five-Year Requirement	3,465	3,420
Buffer	20%	20%
Five-Year Requirement	4,158	4,104

Source: ‘Uttlesford District Council 5-Year Land Supply Statement’ (2022) & Lichfields Analysis

Table 3.6 Uttlesford District's Five-Year Supply (20% buffer)

	Uttlesford District Council	Lichfields (no supply amends)
Five-Year Requirement	4,158	4,104
UDC Stated Supply	3,560	3,560
Five-Year Supply	4.28 years	4.34 years
Shortfall / Surplus	-598	-544

Source: 'Uttlesford Five-Year Housing Land Supply Position Statement' (2022) & Lichfields Analysis

## 4.0 What Constitutes a Deliverable Site?

- 4.1 This section of the Report overviews relevant policy and guidance, and in light of which sets out what we consider to constitute a deliverable site. It sets out a framework for how we assess the deliverability of sites in Section 5.0 of this report.

### Policy and guidance

- 4.2 To ‘demonstrate’ a 5YHLS, NPPF (2021) paragraph 74 requires local planning authorities to identify a supply of specific ‘deliverable’ sites sufficient to meet five-years’ worth of housing. The NPPF (2021) defines a ‘deliverable’ site as:

*“To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:*

*a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*

*b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.” (Annex 2, page 66)*

- 4.3 The Secretary of State (‘SoS’) has confirmed his interpretation that the definition of ‘deliverable’ should not be taken as being a ‘closed list’<sup>10</sup>. The SoS stated that the “*examples given in categories (a) and (b) are not exhaustive of all the categories of site which are capable of meeting that definition*” (Paragraph B of the Consent Order). Therefore, sites not specifically listed in the definition of deliverable can be found to be ‘deliverable’ where that site can be shown to be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years’. For example, this would extend to sites that have a resolution to grant planning permission subject to the signing of a S106 agreement at the base date.

- 4.4 The PPG provides further guidance on what constitutes a ‘deliverable’ site in the context of decision-taking and the evidence required to demonstrate deliverability, for example such evidence may include:

*“current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;*

*firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;*

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<sup>10</sup> See Consent Order for East Northamptonshire Council v Secretary of State for Communities and Local Government (CO/917/2020) - [REDACTED]

*firm progress with site assessment work; or*

*clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.” (ID: 68-007)*

## Our interpretation of policy and guidance?

4.5 From the above, our interpretation of policy and guidance is summarised as follows:

- **‘Category A’** sites are those listed in the definition of ‘deliverable’ (i.e. sites with a detailed permission) and – in accordance with the PPG (ID: 68-007) – are sites that are ‘in principle’ deliverable. It is only when these sites expire, or a third party presents ‘clear evidence’ that these sites will not deliver within the five-year period that they should not be considered deliverable (i.e. to overturn the presumption that they are ‘deliverable’).
- **‘Category B’** sites are - in effect - any large site that does not have a detailed permission (including those types of sites not specifically listed in the definition). It is for an LPA to demonstrate these sites are deliverable with published ‘clear evidence’ that housing completions will begin on site within five-years. The test is not whether the Council’s assumptions on any one site are unrealistic, it is that they have to be shown to be clearly realistic<sup>11</sup>.

4.6 What does and does not form ‘clear evidence’ has been a matter of much debate at various planning appeals. Ultimately, there is no definition of ‘clear evidence’ and determining what does form ‘clear evidence’ is a matter of planning judgement. Having reviewed a large body of precedent from both Inspector and Secretary of State decisions we consider the below points to be most important:

**1 Deliverability is determined on the content and value of the evidence prepared, not simply the fact that evidence itself has been provided.**

As confirmed by the ‘Popes Lane’ decision<sup>12</sup>, it is the evidential value of the evidence gathered that demonstrates that a development’s prospects of delivery are realistic: forming ‘clear evidence’. The value of any site-specific evidence is itself dependant on the site’s context and the specific circumstances of that site<sup>13</sup>. Evidence can also take account of information gathered after the base date as long as it is used to support sites identified as deliverable as of the base date<sup>14</sup>. However, to ensure consistency in the approach to assessing a five-year supply new sites should not be added into the supply of an existing position; instead, new sites should only be added once a new position with an updated base date is published.

**2 While there is no minimum criterion for clear evidence<sup>15</sup>, the type and form of ‘clear evidence’ for Category B sites will vary depending on circumstances of the site (e.g. its size or how quickly it is expected to deliver).**

<sup>11</sup> Appeal ref. 3236460 (IR65)

<sup>12</sup> Appeal ref. 3216104 (IR 23)

<sup>13</sup> Confirmed in both the ‘Popes Lane’ (ref. 3216104 (IR 23) and ‘Rectory Farm’ (ref. 3234204) (IR 32) decisions

<sup>14</sup> As the Secretary of State confirmed in the ‘Woburn Sands’ decision (ref. 3169314) (DL 12) and again in the ‘Land at Mitchelswood Farm’ decision (ref. 3119171) (IR9.61-9.62)

<sup>15</sup> Land to the South of Williamsfield Road (ref. 3207411) (IR 27)

By way of example, the type and form of evidence that could be considered robust to demonstrate a ‘realistic prospect’ of completions beginning within the five-year period for a hypothetical Category (B) site that has outline permission for 50 units and has a reserved matters application pending consideration, a named housebuilder onboard, with an assumed output in line with average lead-in times/build rates for the local area will be markedly different to that required for either a large-scale strategic site for 1,500 units that does not have a named housebuilder promoting it and also has an allocation but no extant outline permission, or a site that is assumed to be building out sooner and/or more quickly than has typically been the case for comparable sites in an LPA or elsewhere.

### 3 LPAs should undertake a critical analysis of whatever evidence is gathered from developers.

In the ‘Rectory Farm’ decision<sup>16</sup> the Inspector noted that the Council did not simply accept the proforma returns from developers on face-value. Where the Council thought the rates overly ambitious the rates were altered. This appeared to give additional weight to the Council’s findings. Another Inspector in the earlier ‘Land to the south of Williamsfield Road’ decision<sup>17</sup> echoed these comments.

## Other considerations: Lead in Time and Build Out Rates

- 4.7 In assessing the deliverability of sites, a key part of the assessment is determining whether the lead-in times and build rate assumptions applied are realistic and robust. A site may be deliverable – with a reasonable prospect of delivering in the five-year period – but the number of homes expected to be delivered within that period may itself be unrealistic.
- 4.8 The Council has published no local evidence in respect of lead-in times and build rates. Instead, the Council’s delivery projections “*have been determined with consideration to a number of factors, including the planning status of the site, submission/approval of corresponding planning and building control applications, past or comparative delivery rates, and site visits. Where the Council has not been able to determine delivery projections using the information available, planning consultants have been contacted for further details.*” (Paragraph 22).
- 4.9 In lieu of local evidence, we have used our own national research report ‘Start to Finish’ (2<sup>nd</sup> Edition, published in February 2020) to benchmark lead-in times and delivery rates. This updated report follows its award winning<sup>18</sup> and widely cited<sup>19</sup> first edition published in November 2016 that assesses delivery rates and lead-in times on at a national level.

<sup>16</sup> Appeal ref. 3234204 (IR 32)

<sup>17</sup> Appeal ref. 3207411 (IR 27)

<sup>18</sup> It won the RTPI Planning Consultancy Award in 2017 for Research Excellence

<sup>19</sup> For example, at the examination of the North Essex Authorities Shared Strategic (Section 1) Plan (see IED/011 & IED/022).

## 5.0 Deliverability Assessment of the Council’s Supply

5.1 This section of the report sets out an overview of the Council’s approach to assessing deliverability and a deliverability review of the Council’s sites.

### The Council’s supply

5.2 The Council identifies a deliverable supply of 3,560 homes across the relevant five-year period from 1<sup>st</sup> April 2022. The Council has published a separate trajectory that details the specific sites included with a brief commentary. The supply is broken down into seven categories set out in Table 5.1 below.

Table 5.1 Uttlesford DC’s Deliverable Supply

Source of Supply	Supply
1) Under construction	1,303
2) With planning permission (full or reserved matters covering whole site)	476
3) With outline permission with part(s) covered by reserved matters	955
4) With outline permission only	98
5) Adjusted figure for communal establishments (C2)	92
6) Small sites <6 dwellings (years 1-3 only)	408
7) Windfall allowance (years 4-5 only)	228
<b>Total</b>	<b>3,560</b>

Source: Uttlesford Five-Year Housing Land Supply Position Statement – Appendix 2 (2022)

5.3 Noting the sources of supply above, the Council consider ‘small sites’ as being five or fewer homes, with large sites being for six or more homes. In our assessment, we consider a large site as being 10 or more homes and small as being nine or fewer; consistent with the definition of ‘major’ and ‘minor’ development. This has implications for how we assess sites in accordance with the definition of deliverable.

### Appeal precedent

5.4 At the recent Helena Romanes School appeal (ref. 3296064) (dated February 2023) the Appellant put forward an assessment of the Council’s 5YHLS position. While the Inspector did not appear to review each site in detail, he stated that “*there is some force to the appellant’s assessment of deliverable supply*” (DL Para 56); that the Council’s position has a “*general lack of the evidential threshold set out in the PPG*” (DL Para 56) and that the Council’s housing land supply position is “*closer to the 4 years invited by the appellant*” (DL Para 57). We have considered the developers deliverability review in undertaking our own, detailed below, but apply our own judgement to each site noting that the Inspector did not endorse the Appellant’s conclusions on specific sites.

5.5 In addition, we note that the recent S62A ‘Decision Notice and Statement of Reasons’ for the ‘Land East of Station Road’ scheme (ref. S62A/2022/0012). The Inspector here notes the Council’s supply as being the stated 4.89 years but does not interrogate the position any further and applies the tilted balance (Paragraph 114). Similarly, the more recent ‘Land



West of Thraxted Road’ S62A ‘Decision Notice and Statement of Reasons’ notes that the Council confirmed it cannot demonstrate a 5YHLS and the titled balance applies (ref. S62A/2022/0014) (Paragraph 46).

## Deliverability review

5.6 The below sets out a summary of our deliverability review of the Council’s stated supply. We have included a full schedule of our amendments – including the reasoning for each amendment – at Appendix 1 to this report.

### 1) Under construction

5.7 This source of supply makes a major contribution to Uttlesford’s stated supply at 1,303 units. Having reviewed the sites, we have removed one site (‘Land At Smiths Farm’) as we do not consider it to be deliverable. We have also made amendments to two sites where the number in the trajectory did not reflect the accurate position in terms of net dwellings.

5.8 In total, we reduce the supply from this source to 1,221 units (a reduction of 82 units).

Table 5.2 Summary of Lichfields Review of Uttlesford DCs sites under construction

Uttlesford DC	Lichfields	Difference
1,303	1,221	-82

Source: Lichfields Analysis

### 2) With planning permission (full or reserved matters covering whole site)

5.9 These sites, with detailed planning permission covering the whole site, are ‘Category A’ which are considered deliverable unless there is clear evidence of them not coming forward, or the permission has lapsed. We have made no amendments to sites from this source in our review.

Table 5.3 Summary of Lichfields Review of Uttlesford DCs sites with planning permission (full or reserved matters covering whole site)

Uttlesford DC	Lichfields	Difference
476	476	0

Source: Lichfields Analysis

### 3) With outline permission with part(s) covered by reserved matters

5.10 A number of sites that were placed in this category by Uttlesford only have outline permission and, therefore, should have been categorised as such (i.e. Category 4). Our review has amended the delivery from eight sites in this source. These sites have been assessed as either not having sufficiently ‘clear evidence’ to be considered deliverable or are considered deliverable, but the lead-in times have been amended.

5.11 In total, our amendments to this source of supply reduce the supply by 223 dwellings to 732 dwellings in total.

Table 5.4 Summary of Lichfields Review of Uttlesford DCs Sites with outline permission with part(s) covered by reserved matters

Uttlesford DC	Lichfields	Difference
955	732	-223

Source: Lichfields Analysis

#### 4) With outline permission only

- 5.12 Sites with outline permission only are ‘Category B’ sites for which clear evidence of deliverability is required. In our review, we found that one site lacks sufficiently clear evidence to be deliverable. Therefore, our amendments to this source of supply reduce supply by 60 dwellings to 38 in total.

Table 5.5 Summary of Lichfields Review of Uttlesford DCs sites with outline permission only

Uttlesford DC	Lichfields	Difference
98	38	-60

Source: Lichfields Analysis

#### 5) Adjusted figure for communal establishments (C2)

- 5.13 Three sites comprising 167 C2 bedspaces are included within the Council’s supply. As per the HDT Rulebook (2018), a ratio of 1:1.8, based on the national average number of adults in all households, should be applied. This has been applied correctly by the Council resulting in a supply of 92 units from this source. We have not made any amendments.

Table 5.6 Summary of Lichfields Review of Uttlesford DCs sites adjusted figure for communal establishments (C2)

Uttlesford DC	Lichfields	Difference
92	92	0

Source: Lichfields Analysis

#### 6) Small sites <6 dwellings (years 1-3 only)

- 5.14 Small sites (<6 units) are expected to deliver 408 dwellings within the first three years of the supply. This is based on 647 net dwellings with permission and an assumption that 63% of these will be delivered (reflecting the evidence presented in the Windfall Allowance for Uttlesford Paper June 2021). The permissions comprising the 647 net dwellings have not been identified individually on the trajectory; therefore, we have been unable to undertake a targeted review of these sites.
- 5.15 Notwithstanding, these types of sites are Category A and are presumed ‘deliverable’. It is only where clear evidence is provided that the site is not deliverable that it would be removed from the supply. We consider that the non-implementation rate applied by the Council is a realistic figure given it reflects the evidence presented in their Windfall Allowance Paper. Therefore, we do not make any amendments to this source of supply.

Table 5.7 Summary of Lichfields Review of Uttlesford DCs small sites <6 dwellings (years 1-3 only)

Uttlesford DC	Lichfields	Difference
408	408	0

Source: Lichfields Analysis

Table 5.8 Small Sites <6 Dwellings Delivery

	2022/23	2023/24	2024/25	2025/26	2026/27	Total
Uttlesford DC	136	136	136	0	0	408
Lichfields	136	136	136	0	0	408
Difference	0	0	0	0	0	0

Source: Uttlesford Five-Year Housing Land Supply Position Statement – Appendix 2 (2022)

### 7) Windfall allowance (years 4-5 only)

- 5.16 The Council include an allowance for windfall site delivery of 114 dwellings per year. This figure is primarily based on historic rates of completions as evidenced in the Council’s ‘Windfall Topic Paper’ (June 2021). To avoid double counting with the small sites with extant planning permissions, no allowance for windfall is made in years one to three of the five-year period (i.e. 2022/23 – 2024/25).
- 5.17 In accordance with the NPPF (Paragraph 71), a windfall allowance should, as a starting point, not be included. It is only where there is ‘compelling evidence’ that an allowance be added to the Council’s supply. Any allowance made should also have regard for the strategic housing land availability assessment, past delivery rates, and expected future trends.
- 5.18 Reviewing the proposed allowance, we consider it to be generally modest and acceptable following a review of the Council’s ‘Windfall Paper’. However, we note that the figure included in based partly on past completions of both small sites (which the Council describe as <6 homes) and ‘large sites’ (which the Council describe as >6 homes). For example, the ‘Windfall Topic Paper’ notes that a high number of windfall permissions were granted due to “several permissions granted for developments of between 6-20 dwellings” (Paragraph 17). It is unclear whether 20 homes is the ‘largest’ site the Council assess. Notwithstanding, while we question the inclusion of larger sites as part of the calculation, it appears they only make a modest contribution and are a typology of site more likely to come forward in Uttlesford given the lack of up-to-date Local Plan.
- 5.19 In this context, while we might have reservations regarding the large site inclusion within the windfall rate applied, we do not propose any specific amendments to this source of supply.

Table 5.9 Summary of Lichfields Review of Uttlesford DCs windfall allowance (years 4-5 only)

Uttlesford DC	Lichfields	Difference
228	228	0

Source: Lichfields Analysis

### Lichfields Position on five year Supply

- 5.20 From our review of the Council’s current supply, we conclude the Council can only evidence a deliverable supply of 3,195 homes in the relevant five-year period.

Table 5.10 Uttlesford DC's Deliverable Supply

Source of Supply	Council Supply	Lichfields	Difference
2) Under construction	1,303	1,221	-82
3) With planning permission (full or reserved matters covering whole site)	476	476	0
4) With outline permission with part(s) covered by reserved matters	955	654	-223
5) With outline permission only	98	38	-60
6) Adjusted figure for communal establishments (C2)	92	92	0
7) Small sites <6 dwellings (years 1-3 only)	408	408	0
8) Windfall allowance (years 4-5 only)	228	228	0
<b>Total</b>	<b>3,560</b>	<b>3,195</b>	<b>-365</b>

Source: Lichfields Analysis

5.21 Our reduction in the Council's supply is primarily because of a lack of sufficiently clear evidence to demonstrate its Category B sites as being deliverable. These are the sites which are inherently less certain of delivery in the five-year period; hence the requirement for the publication of clear evidence to be deliverable. In this context:

- It is the Council's responsibility to publish this evidence and while there has been some engagement with developers and on-site surveys, the Council's position itself is substantively absent of the necessary detail to conclude that sites are indeed deliverable; and
- In reviewing the evidence for these sites, we would agree with the Helena Romanes School appeal Inspector (ref. 3296064) that the Council's position has a "*general lack of the evidential threshold set out in the PPG*" (DL Para 56).

5.22 In addition to those sites without sufficiently clear evidence:

- There are a few sites where the figures identified appear to be gross, rather than net figures (i.e. demolitions/conversions not having been correctly accounted for).
- We have concerns regarding the windfall allowance but make no arithmetical amends to it. However, it should be noted that it effectively projects that the Council will need to continue to grant permission on large unallocated sites, such as in Takeley, which will be needed for supply.
- In some cases we consider the Council's assessment of lead-in times to be unrealistic (given the site's progress) so have amended these in line with Start to Finish (in lieu of local evidence).

5.23 The effect of our amendments to both the five-year housing requirement and supply results in the Council being able to demonstrate a land supply equivalent to 4.45 years; with a shortfall of 396 homes (applying a 5% buffer).

Table 5.11 Amended Uttlesford DC 5YHLS Position Supply and Requirement Amends (5% buffer)

	Uttlesford DC	Lichfields
Five-Year Requirement (5% buffer)	3,638	3,591
Deliverable Supply	3,560	3,195
Five-Year Housing Land Supply	4.89 years	4.45 years
Shortfall / Surplus	-78	-396

Source: Uttlesford Five-Year Housing Land Supply Position Statement (2022) & Lichfields Analysis

5.24

As a sensitivity, were the 20% buffer to apply – noting our projected measurement for the next HDT (see Table 5.12 Amended Uttlesford DC 5YHLS Position Supply and Requirement Amends (20% buffer)) – the Council’s supply position would reduce to 3.89 years. However, until such time as the 2022 HDT is published by Government (and the Government confirm its intention of how to or how not to apply the 2022 HDT implications), the Council’s position is 4.45 years with a 5% buffer is applicable.

Table 5.12 Amended Uttlesford DC 5YHLS Position Supply and Requirement Amends (20% buffer)

	Uttlesford DC	Lichfields
Five-Year Requirement (20% buffer)	4,158	4,104
Deliverable Supply	3,560	3,195
Five-Year Housing Land Supply	4.28 years	3.89 years
Shortfall / Surplus	-598	-909

Source: Uttlesford Five-Year Housing Land Supply Position Statement (2022) & Lichfields Analysis



## 6.0 Relevance of 5YHLS to This Application

6.1 The presence or not of a 5YHLS is a material consideration for the determination of any planning application involving the provision of housing. The lack of a 5YHLS engages the tilted balance of NPPF Paragraph 11(d), whilst the supply position is also material to the degree of weight that should be given to the provision of new homes.

### The ‘titled balance’

6.2 NPPF Paragraph 11(d) sets out that for decision taking, where the policies which are most important for determining the application are out-of-date (including by virtue of there not being a demonstrable 5YHLS), permission should be granted unless (i) policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusing the development or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (the often called ‘tilted balance’).

6.3 In this case, the Council acknowledges it cannot demonstrate a 5YHLS. Our amendments to the supply reduces this position to 4.45 years. Therefore, Paragraph 11(d) is engaged. The former clause (i) is not relevant or applicable to this application site (i.e. it is not within the areas listed at NPPF Footnote 6) which leaves the latter clause (ii) to apply for decision taking.

6.4 5YHLS and how it engages Paragraph 11(d) is binary; either a 5YHLS exists (and as such Paragraph 11(d) is not engaged via this route<sup>20</sup>) or it does not exist, and Paragraph 11(d) is engaged.

6.5 In addition:

- As a starting point, many policies are likely already out-of-date and the titled balance engaged irrespective of the 5YHLS position. This is because the Council’s latest plan was adopted in 2005 (with a housing requirement to 2011) and it has been concluded policies most important for determining housing applications are out-of-date, including the settlement boundary policy (S7) which previous appeals have concluded should only be given moderate weight<sup>21</sup>; and
- We project that the Council’s 2022 HDT measurement will be 58%. A measurement of this level (i.e. below 75%) means Paragraph 11(d) would be engaged assuming the Government apply the HDT implications as normal.

### Significance to the degree of the shortfall

6.6 Notwithstanding the binary nature of engaging NPPF Paragraph 11(d), the scale of any 5YHLS shortfall is also material and will impact on the weight to be attached to the matters to be weighed in the tilted planning balance; it is therefore considered necessary to address, at least in broad terms, the scale of shortfall. That is also consistent with the approach set out in the recent high court judgment *Gladman v SoS Housing Communities and Local Government* [2019] EWHC 128,<sup>22</sup> whereby Justice Dove concluded (para 26) “in the event

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<sup>20</sup> Albeit there may be other reasons that render relevant policies out-of-date

<sup>21</sup> For example, see w ref. 3282098. Land East of St Edmunds Lane, St Edmunds Lane, Great Dunmow

<sup>22</sup> *Gladman Development Ltd v Secretary of State of Housing Communities And Local Government & Anor* [2019] EWHC 128 (Admin) (29 January 2019) - [REDACTED]



*of there being a shortfall in the housing land supply, by and large it will be necessary for the decision maker to engage at least in broad terms what the extent of that shortfall is.”*

- 6.7 In broad terms, the greater the degree of shortfall, the greater weight the shortfall must be given in the balancing exercise.
- 6.8 The degree of 5YHLS shortfall in Uttlesford is significant, equivalent to 396 homes or 0.55 years. By way of reference the recent Helena Romanes School appeal in Uttlesford District, the Council’s supply position was concluded to be ‘closer to 4’ years and therefore the Inspector concluded that the public benefit arising from additional new homes should be given very significant weight in any balancing exercise.
- 6.9 This shortfall is further compounded by the fact that:
- 1 Our assessment of the Council’s recent housing delivery indicates that they will score 58% (see Table 3.2) in the 2022 Housing Delivery Test, and therefore be subject to the 20% buffer which would further reduce their 5YHLS position to 3.89 years with a shortfall of 909 dwellings.
  - 2 The Council’s median affordability ratio has increased from 10.76 in 2005 (i.e. the date of adoption of its Local Plan) to 13.18 in 2022. This is significantly higher than the national average of 8.28 in England and just above the South East average of 10.75.
  - 3 The Council’s waiting list for affordable homes has increased from 895 persons in January 2016 to 1,299 persons in April 2022; an increase of 45%<sup>23</sup>. This highlights the pressing need for more homes in the District and the development would deliver a further 39 affordable homes to help meet this need.
  - 4 The Local Plan was adopted in 2005 and is severely out of date. While the Council is preparing a new Local Plan, this process was put on hold in September 2022 and a new plan is not expected to be adopted in the short term. Therefore, the Council is reliant on unallocated development for housing delivery.
  - 5 The Standard Method figure used to determine the Council’s 5YHLS is capped at 40% above projected household growth. Therefore, the ‘true’ objectively assessed need for housing without any cap applied is significantly greater than 683dpa, at 769 dpa.
  - 6 As of February 2022, Uttlesford District Council has been placed in ‘special measures’ by the Government due to the poor quality of decision-making on applications for planning permission for major development. Inadequate decision-making in recent years is likely to have delayed the delivery of much needed new housing.
- 6.10 In summary the 5YHLS shortfall is significant, and that should be weighed in the tilted planning balance in respect of the benefits and any potential disbenefits of the proposal.

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<sup>23</sup> Details of the waiting list provided by Weston Homes to Lichfields via Freedom of Information Requests (FOIs – refs. 21-190, 22-207, 23-249)

## 7.0 Proposed Changes to the NPPF

7.1 At the time of writing, the Government’s ‘Levelling-up and Regeneration Bill: reforms to national planning policy’ consultation has concluded (having ended 2<sup>nd</sup> March 2023). There are a number of proposed amendments to national planning policy which relate to 5YHLS. We set out a brief summary of these below, and assess the relevance of each in the context of this application:

- 1 LPAs with up-to-date requirements would no longer need to demonstrate a 5YHLS. This would not apply to Uttlesford as its requirement is not up-to-date;
- 2 5% and 20% buffers are proposed to be removed for all authorities.
- 3 Past over-supply would be incorporated in 5YHLS assessments, with the consultation stating that these should include ‘any previous under or over-supply as set out in planning practice guidance’. The consultation is not clear on how this would be calculated;
- 4 A proposed 4-year supply transitional arrangement for LPAs that have submitted a plan for examination or published a Regulation 19 plan, or a Regulation 18 plan with allocations, proposals map, and a housing requirement. Uttlesford – at the time of writing – has not published a Regulation 18 Plan with allocations;
- 5 Additional protections afforded to areas with a made neighbourhood plan. The application site falls within the Takeley Neighbourhood Plan area. However, there is not a made Takeley Neighbourhood Plan.

7.2 While the consultation on future changes to the NPPF is capable of being a material consideration in the determination of planning applications and appeals, we consider that it holds very limited weight in the determination of this application, for the reasons set out below:

- The proposed amendments to planning policy, including those concerning 5YHLS, are high-level without the benefit of accompanying changes to the planning practice guidance on how these policies should be applied.
- As such, no conclusions can be reached on how these would impact an LPA’s 5YHLS position, until the full guidance is available for review. For example, if the removal of the buffer was implemented, this might need to correspond with amendments to the guidance concerning evidence necessary to demonstrate deliverability, in order to ensure that future land supply is capable of meeting housing requirements.
- The proposed changes to the NPPF are at the early stages of consultation, they are controversial and will undoubtedly generate a high volume of responses including objections that the Government will need to address and resolve, including through potential re-drafting and/or guidance. As such, attributing the amendments very limited weight is appropriate. This is consistent with the principles set out in paragraph 48 of the NPPF that relate to emerging Local Plans; these allow LPAs to give weight to emerging policies based on the stage of preparation of the emerging plan, and the extent to which there are unresolved objections to relevant policies.

7.3 Nonetheless, we have considered the impact that the proposed changes to policy – in the absence of guidance – might have on Uttlesford’s 5YHLS position and its implications for

this application. As set out in paragraph 7.1, the majority of the proposals would not affect Uttlesford as it does not have an up-to-date housing requirement, there is no apparent past oversupply, its emerging plan is not sufficiently progressed, and the application site does not fall within an area with a made neighbourhood plan. The key amendment which would affect Uttlesford’s position is therefore the proposed removal of the 5% and 20% buffers.

7.4 As such, in Table 7.1 we have considered Uttlesford’s 5YHLS position with no buffers included. Using Uttlesford’s supply figures, this would increase their supply to 5.14 years, marginally securing a 5YHLS. However, based on our amendments to the deliverable supply – as set out above in this report – the position would be 4.67 years. Therefore, on the basis of our analysis, even without the application of a buffer, Uttlesford is not able to demonstrate a 5YHLS.

Table 7.1 Amended Uttlesford DCs 5YHLS Position with no buffers included

	Uttlesford DC	Lichfields
Five-Year Requirement (no buffers)	3,465	3,420
Deliverable Supply	3,560	3,195
Five-Year Housing Land Supply	5.14 years	4.67 years
Shortfall / Surplus	+95	-320

7.5 The 4-year supply transitional arrangement proposed in the consultation would not apply to Uttlesford because it has not published a Regulation 18 or 19 plan that meets the requirements. If it did publish such a plan in the short term, our analysis shows that it would be able to demonstrate a 5YHLS, with no buffers.

7.6 Overall, we consider that the proposed amendments to policy set out in the Government’s ‘Levelling-up and Regeneration Bill: reforms to national planning policy’ consultation should be afforded very limited weight in the context of this application. Moreover, if it was afforded more than ‘very limited’ weight, its provision do not fundamentally alter the position that Uttlesford is unable to demonstrate a 5YHLS and that the consequences of that set within the current NPPF therefore must be engaged.

## 8.0 Conclusions

8.1 This report has considered Uttlesford DC's 5YHLS position in the context of Weston Homes proposed development at 'Bull Field, Takeley'.

**The housing requirement, in line with NPPF Paragraph 74 and PPG 68-044, is 3,591 homes over the five-year period. However, it might increase to 4,104 homes depending on the publication and application of the 2022 HDT measurements.**

8.2 Having regard for policy and guidance, the Council's standard method figure should be updated to a 2023 base date, using the latest affordability ratio, and applying a 5% buffer. As a result, the Council's five-year requirement reduces slightly from that stated by the Council. It might be that the 20% buffer is appropriate in the near future but this is subject to when the Government publishes the next HDT measurements and whether or not it decides to implement its consequences as normal. However, until such time the 5% buffer should be used.

**The Council's evidence identifies deliverable sites equivalent to 3,560 homes. On this basis, Uttlesford DC's 5YHLS position is at most 4.96 years supply – using our amended requirements – and the tilted balance at NPPF Paragraph 11(d) is engaged.**

8.3 The Council's latest 5YHLS position concludes a deliverable supply of 3,560. Against either a requirement incorporating a 5% or 20% buffer the Council cannot demonstrate a five-year land supply (4.96 years and 4.34 years respectively). Thus, Paragraph 11(d) of the NPPF – the 'tilted balance' is engaged for this application.

**However, having regard to the NPPF definition of deliverable, we consider the Councils supply should be reduced to just 3,195 homes.**

8.4 When reviewing the Council's supply, we consider the Council can only demonstrate a supply of 3,195 homes from deliverable sites. The key issue we have identified is a lack of clear evidence on large sites with outline permission. There are also other issues with sites we have identified including unrealistic build-out rates and lead-in times. These conclusions on the degree of clear evidence available, and that the Council's supply figure should be reduced, is consistent with previous Inspectors conclusions in respect of recent appeal decisions within the district.

**On this basis, Uttlesford DC's 5YHLS position should be 4.45 years. The degree of shortfall is 0.55 years, and this in and of itself should be considered a significant shortfall.**

8.5 The weight to this is enhanced given the Council's 5YHLS is assessed against a capped local housing need figure, previous shortfalls, the Councils median affordability ratio remains high, and to meet needs the Council are reliant on non-allocated sites given there is little prospect of the Council adopting a local plan to remedy supply issues in the short term.

8.6 The degree of shortfall is clearly material and should be considered in the tilted planning balance. In broad terms, the greater the degree of shortfall, the greater weight the shortfall must be given in the balancing exercise. Here, the shortfall in Uttlesford should be

considered significant . The weight to this shortfall is enhanced by local factors: including the Council's recent housing delivery, which is low (using a projected HDT measurement), the fact that the Local Plan is severely out-of-date, and the Council being placed into 'special measures' by the government.

- 8.7 Finally, while changes are proposed to 5YHLS in the draft NPPF the proposed policy changes should hold very little weight in the determination of the application.

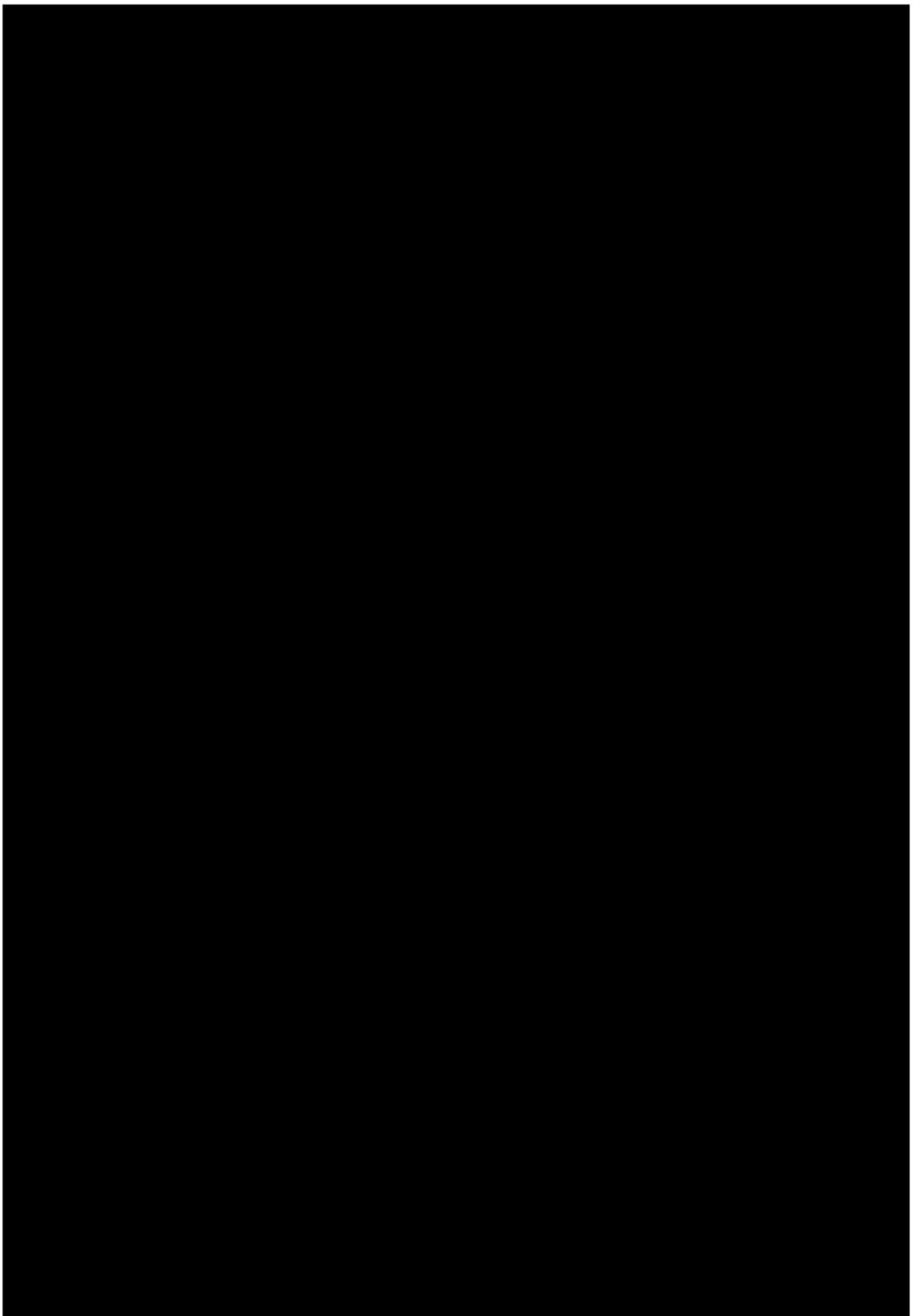
## **Appendix 1 Deliverability Review**



Appendix 1 - Lichfields Deliverability Review

Lichfields Site Ref.	Site Information											Council Delivery					Lichfields Amended Delivery					Lichfields Reasoning									
	Site Name	Application Reference	Date of Permission	Capacity (Gross)	Units Lost	Site Address	Status	Capacity at April 2022	PDL/G	Notes Pre-20	20-21 Notes	21-22 Notes	Phasing 2022/23	Phasing 2023/24	Phasing 2024/25	Phasing 2025/26	Phasing 2026/27	3 Year Total	Phasing 2022/23	Phasing 2023/24	Phasing 2024/25	Phasing 2025/26	Phasing 2026/27	3 Year Total	Diff	Reason for Amend	Lichfields Site Summary				
L1	Great Dunmow: Land west of Chelmsford Road	UTT/17/1564/OP UTT/17/3106/DFO	04/11/2014	370		Land At Smiths Farm Chelmsford Road Great Dunmow Essex (West of Chelmsford Road) (C06 L1AT1)	1 - Under Construction	370	G		Agent proposes amending details changing 120 dwellings in Yrs 1-5 to 0, 250 dwellings in Yrs 6-10 to 180 and 0 dwellings in Yrs 11-15 to 190 (3-Apr-19). Appeal in progress.	4.6.22: UTT/17/3106/DFO pending determination.																Not deliverable. Evidence not sufficiently clear. Details element: Work on the detailed element (Phase 1) does not appear to have started in earnest but the permission has been implemented as confirmed in a Court of Appeal Judgment (Case No: A3/2018/1888 dated 17/10/2019). Crest Nicholson has also submitted an RMA for Phase 2 (115 units plus 70 extra care units) in November 2017. This remains pending determination with no activity on the application since 2018. About this application is keeping the permission extent (in accordance with Condition 15a). A recent application was approved to discharge Condition 22 (additional biodiversity surveys) which required additional surveys to be submitted in the event the development commenced more than 3 years post permission. Local media also reports that there was a land valuation dispute and that the academy trust for the primary school proposed has pulled out. It would appear this dispute delayed the scheme coming forward. Considering the two phases: - Phase 1 (detailed): This element of the scheme is 'Category A'. We consider that there is clear evidence the site won't deliver in the five-year period. This evidence being the land valuation dispute which appears to be ongoing (given there is no evidence to the contrary). The site has also been in the five-year supply for some time once anticipated to start in 2016/17 as per the April 2015 SHLS statement. - Phase 2 (outline): This element of the scheme is 'Category B' and requires 'clear evidence' to be considered deliverable. We consider that the Council's evidence is not sufficiently clear for this site to be deliverable. The evidence provided is basic and lacking in detail when considering there are simple types of evidence that can form 'clear evidence' in the PPG. This is also clearly a complex site for which there is a difficult planning history.			
L2	Great Hallingbury: Newlands Woodside Cottage & Oakside	UTT/08/10/FUL	09/07/2010	6	3	Newlands Woodside Cottage & Oakside Church Road Great Hallingbury	1 - Under Construction	1	PDL		Applicant 17.11.2020 Two dwellings demolished and 1 semi detached properties and 3 detached built. One dwelling remains but still has consent. One new net detached house.	July 2022: works not yet commenced on final dwg. Projected completion adjusted accordingly.																Net dwellings.	Permission granted in 2010 for 6 dwellings (net 3 due to demolition of 3 dwellings). Five dwellings have been completed with 2 units demolished. Work not commenced on final of the 6 dwellings that would require the loss of the final original dwelling. Even if final approved is built, the net number of homes delivered in this five-year period would be zero.		
L3	Newport: Bricketts London Road	UTT/16/1280/OP UTT/19/2900/DFO	25/11/2016	11	1	Bricketts London Road Newport CB11 3PP	1 - Under Construction	11	G		Applicant 17.11.20: existing to being not yet demolished. Hedge to be on site Feb 2021 and off by Jan 2022 with sales completing soon after that.	July 2022 site visit: Works underway. Three dwg. signs part-built. Existing demolished.																	Net dwellings.	Reserved matters were granted in 2021 following outline permission in 2016. The outline permission was for demolition of 1 dwelling and erection of up to 11 dwellings. Therefore 10 dwellings is the correct net figure.	
L4	Elsenham: Land northwest of Elsenham Road	UTT/17/2573/OP UTT/2 /2799/DFO	17/12/2021	330		Land To The North West Of Elsenham Road Elsenham Hertfordshire	3 - With out the permission with part(s) covered by reserved matters	330	G			UTT/21/2799/DFO relates to access road. July 2022 site visit: Works ongoing to access road. 10.6.22: UTT/21/2889/DFO (additional matters) approved 1.8.22. DoCo approved 23.3.22 - 10.3.22. Other DoCs and 578 pending determination. UBR/22/0162/DWEN (330 dwellings) IN accepted 23.2.22. Aug 22: Agent estimates 25 completions during 22/23 and 30 per year thereafter.																		Deliverable. Amended lead-in times. However reserved matters approval was granted for the homes in June 2022; therefore delivery in 22/23 is not considered realistic. Based on our own 'start to finish' benchmarks, (used in lieu of local data) sites of this size take 1.9 years on average to go from a detailed permission to first completion. Applying a 1.9-year period from detailed approval in June 2022 to completion of the first dwelling in early 2024 means a slight reduction in the Council's assumed trajectory. This revised timescale is backed up given there is a recent recent submission (Jan 23) to discharge pre-commencement conditions (i.e. ref. UTT/23/0244/DOC), demonstrating the main development has not commenced at this stage. This would render the agents assumption that 22 homes would be completed plainly incorrect.	
L5	Elsenham: Land south of Rush Lane	UTT/19/0437/OP	04/09/2020	40		Land South Of Rush Lane Elsenham	3 - With out the permission with part(s) covered by reserved matters	40	G			July 2022 site visit: No works yet undertaken. Aug 22: Agent advised they are no longer instructed but forwarded my query to the new agent. Could not advise further. Owing to new agent involvement, delivery at present still expected.																	Not deliverable. Evidence not sufficiently clear.	In the absence of a detailed planning application and without a householder on board, this site is not considered deliverable given there is a lack of sufficiently clear evidence. We note that the permission lapses in September unless reserved matters are submitted by this date (in accordance with Condition 2). We note that the Council's evidence shows that the development has not commenced (backed up by the lack of applications to discharge conditions) but also that the agent contacted is no longer involved in the site.	
L6	Great Dunmow: Land south of Stortford Road Dunmow	UTT/18/2574/OP	21/01/2022	440	1	Land south of Stortford Road Dunmow	3 - With out the permission with part(s) covered by reserved matters	439	G			Hybrid app: 332 dwellings net as out inc; Phase 1 inc 107 dwg. signs net as full. 6.6.22: UTT/22/1148/PA (DFO query) response provided 26.7.22. Aug 22: Agent estimates RM by June '22 commencement on site in August '23 20 completions in 23/24 then 30 completions per year thereafter.																	Deliverable. Amended lead-in times. For the detailed element, start to finish would suggest first completion 1.9 years from permission being granted. This would mean completions in December 2023. However given there has been no progress on discharging conditions this appears overly optimistic. We would push delivery back to Apr 1 2024 to a low additional time for conditions to be discharged.		
L7	Henham: Land south of Vernons Close Hill Road Henham Hertfordshire	UTT/20/0604/OP	30/11/2021	45		Land South Of Vernons Close Hill Road Henham Hertfordshire	3 - With out the permission with part(s) covered by reserved matters	45	G			10.6.22: No further relevant apps. Aug 22: Agent no longer directly involved but advised the site is very close to being sold to a developer. Estimated 1 year delay for RM consent and pre-commencement a start by late 2023 first occupation by early 2024 and completion by early 2025.																	Not deliverable. Evidence not sufficiently clear.	This site has outline permission granted at appeal Feb 2021 and is a Category B site which requires clear evidence to be considered deliverable. No Reserved Matters or Discharge of Conditions applications have been submitted. The site is being brought forward by Southern and Regional Developments Ltd not a recognised house builder. The Council's evidence is from an Agent whom is no longer involved in the project. Consequently there is not sufficiently clear evidence of the site coming forward.	
L8	Saffron Walden: Land North Of Shire Hill Farm	UTT/17/2832/OP	14/07/2020	100		Land North Of Shire Hill Farm Shire Hill Saffron Walden	3 - With out the permission with part(s) covered by reserved matters	100	G			UTT/21/3363/DFO pending consideration. 13.5.22: UTT/21/3203/NMA approved 9.7.21. UTT/21/3045/DFO received 30.11.21 and pending. DoCo approved/pending. UBR/22/0181/DWEN ( 00 dwellings) received 23.2.22.																		Deliverable. Amended lead-in times. Outline permission was granted in July 2020 for upto 100 homes. Since this time a number of conditions have been discharged and an RMA for the 100 homes has been submitted by Redrow Homes. An application to amend the S106 via a Deed of Variation was submitted in June 2022 and despite a recommendation to grant the variation remains pending determination. The proposed variations include mechanisms for the consultation of a link over a bridleway to a low the construction of the spine road (being sought consent for separately) revising trigger points and other 'additional irregular bits' to 'help deliver the future resident scheme for the site'. It therefore appears the delivery of homes is linked to this S106 Deed of Variation. At this time, the site does not have detailed permission and there are clearly matters to resolve regarding the S106. Notwithstanding, the submission of the RMA is clear evidence that the site will come forward. We have assumed that the Deed of Variation and RMA will be approved by June (i.e. Q2 2023) and then applied Lichfields Start to Finish lead-in time of 1.9 years. This would place delivery at the end of April 2023 (i.e. 11 months delivery in 2023/24).	
L9	Stebbing: Sabre House Dunmow Road	UTT/17/2480/OP	28/11/2017	9		Sabre House Dunmow Road Stebbing CM6 3LU	3 - With out the permission with part(s) covered by reserved matters	9	PDL			UTT/21/0381/OP refused. Appeal in progress.																		Not deliverable. Evidence not sufficiently clear.	This site was subject to an original outline permission granted in November 2017 which has lapsed. A second outline application was refused and then allowed at appeal in August 2021. No Reserved Matters have been submitted with no activity on the planning register in over eighteen months. The Council has also not provided any updated information regarding the site.
L10	Takely: Land West Of Personage Road	UTT/19/0393/OP	31/01/2020	119		Land West Of Personage Road Takely	3 - With out the permission with part(s) covered by reserved matters	119	G			Agent Nov 2021: Plan to submit RM 2022 to start 2023. Full site completion Dec 2023. 13.5.22: NMA's and DoC approved 21.4.22 to 7.3.22. UTT/22/0152/DFO (reduced to 110 dwg. signs) approved 4.5.22. UBR/22/0382/DWEN (110 dwellings) IN accepted 4.5.22. Figures to be amended for 22-23.																		Deliverable. Amended to reflect detailed permission. The site is deliverable and the proposed lead in times and build out rates are reasonable. However, only 110 dwellings have detailed permission and the RM covers the whole site. The 9 additional units expected will not be coming forward.	
L11	Thaxted: Claypits Farm Barfield Road	UTT/18/0750/OP UTT/20/0614/OP	14/03/2019 28 Oct 2021	14		Land At Claypits Farm Barfield Road Thaxted CM6 3PU	3 - With out the permission with part(s) covered by reserved matters	14	PDL			UTT/20/0614/OP approved on appeal 28/10/2021. 6.6.22: UTT/22/1020/FUL pending determination.																	Not deliverable. Evidence not sufficiently clear.	The site does not have detailed permission and the Council has not provided sufficiently clear evidence to demonstrate that the site has a realistic prospect of coming forward in the five-year period. Firstly, the applicant of the recent 273 submission was 'Salacia Ltd' whom do not appear to be a householder. Presumably the site still needs to be sold. There are no RMAs for any detailed elements of the scheme. The Council's evidence is lacking detail for what is a Category B site and is not considered sufficiently clear evidence.	
L12	Great Dunmow: Land west of Buttleys Lane	UTT/19/2334/OP	19/01/2022	60		Land To The West Of Buttleys Lane Dunmow	4 - With out the permission only	60	G			10.6.22: No further relevant apps. Aug 22: agent confirmed that the site is intended to come forward within the next five year period. Discussions ongoing re sale of the site to a householder. RM to be submitted post-sale with development commencing post-approval.																		Not deliverable. Evidence not sufficiently clear.	Outline application ref. UTT/19/2334/OP allowed at appeal in January 2022, for 60 dwellings. No further applications have been submitted. The Council's notes state that "if discussions ongoing re sale of the site to a householder, RM to be submitted post-sale". In the absence of a detailed planning application and without a householder on board, this site is not considered deliverable based on the Council's evidence and its current position in respect of no clear progress towards first completions.

Celebrating  
**60**  
years



**Appendix F – Helena Romanes School Appeal Decision -  
Ref. No. APP/C1570/W/22/3296064**



## Appeal Decision

Hearing Held on 28 February 2023

Accompanied Site visit made on 1 March 2023

**by David Spencer BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 13 March 2023**

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**Appeal Ref: APP/C1570/W/22/3296064**

**Helena Romanes School, Parsonage Downs, Great Dunmow CM6 2AU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Helena Romanes School against the decision of Uttlesford District Council.
  - The application Ref UTT/20/1929/OP, dated 28 July 2020, was refused by notice dated 1 October 2021
  - The development proposed is outline planning application for up to 200 dwellings, demolition of existing school buildings, public open space, landscaping, sustainable drainage system and vehicular access from the B1008 Parsonage Downs. All matters reserved except for means of access.
- 

### Decision

1. The appeal is allowed, and planning permission is granted for up to 200 dwellings, demolition of existing school buildings, public open space, landscaping, sustainable drainage system and vehicular access from the B1008 Parsonage Downs. All matters reserved except for means of access. At Helena Romanes School, Parsonage Downs, Great Dunmow CM6 2AU in accordance with the terms of the application Ref UTT/20/1929/OP, dated 28 July 2020, and subject to the conditions set out in the schedule at the end of this decision.

### Preliminary Matters

2. Following the submission of the appeal in March 2022 various additional documents have been provided by the main parties in relation to housing land supply, viability and planning obligations. This includes an agreed Statement of Common Ground (SoCG) in relation to viability, which was presented prior to the hearing, and helpfully distils the remaining area of dispute.
3. The application is in outline with all matters reserved except for access. Whilst layout, scale, appearance and landscaping would be matters for future consideration, the proposal was accompanied by parameter plans in relation to a land use framework plan and building heights, both of which would form part of any approved plans at this outline stage. Additionally, an indicative layout plan has been provided for illustrative purposes only and is not for approval. The Local Planning Authority (LPA) considered the proposal on this basis and so shall I.
4. On submission of the appeal scheme the appellant provided an amended site location plan and Parsonage Downs junction visibility drawing to reflect the need to secure appropriate visibility splays at the junction of Parsonage Downs

with the B1008, which could be secured by way of a planning condition. These plans were available when the appeal was notified, and appropriate notice served on parties with an interest in the affected land. The Local Highways Authority (LHA) have separately confirmed that the plans would meet their requirements regarding visibility. Accordingly, no one would be prejudiced were my decision to be based on these amended plans.

5. Prior to the hearing, the appellants circulated a final draft Unilateral Undertaking (UU) containing provisions for planning obligations under Section 106 (S106) of the Town and Country Planning Act 1990. A signed and dated version of the UU was submitted shortly after the close of the hearing. The UU contains obligations in relation to habitat mitigation, play space provision, healthcare, public transport and footway/cycleway provision and monitoring, as well as a mechanism to review scheme viability in relation to affordable housing provision. I return to the planning obligations later in this decision.

### **Main Issues**

6. The main issues in this appeal are as follows:
  - (i) Whether the appeal proposal would make adequate provision for: (a) any additional need for infrastructure, services and facilities arising from the development; and (b) affordable housing; and
  - (ii) The effect of the proposal on the setting of proximate Grade II listed buildings including: (1) Newton Hall, the cottage east of Newton Hall and curtilage listed buildings within the Newton Hall complex; and (2) listed buildings to the east of the appeal site on Parsonage Downs; and whether the proposed development would preserve or enhance the character or appearance of the Great Dunmow Conservation Area.

### *Context*

7. The development plan at the appeal site comprises the Uttlesford Local Plan 2005 (the ULP) and the more recent Great Dunmow Neighbourhood Plan 2016 (GDNP). For the purposes of the ULP the appeal site is not allocated and is within countryside to which Policy S7 applies. The GDNP identifies the appeal site within a defined Town Development Area (TDA) to which Policy DS1 states future housing growth will be directed including in line with allocations in the GDNP and by contained infilling. The Helena Romanes School (HRS) site is one of the GDNP housing allocation sites as set out at Policy DS2. The GDNP has been independently examined plan, subsequently put to a local referendum and adopted by Uttlesford District Council in December 2016 and is clearly predicated on residential development on the HRS site (a minimum of 100 units) enabling and part funding the development of a new secondary school subject to various caveats to ensure that would occur in a comprehensive and coordinated way. Section 38(5) of the Planning & Compulsory Purchase Act 2004 states that where there is a conflict between development plans, the conflict should be resolved in favour of the policy which is contained in the last document. In this case, that is Policies DS1 and DS2 of the GDNP.
8. Allied to this, the GDNP protected land south of Stortford Road and east of Buttleys Lane for the development of a new secondary school. Planning permission has subsequently been granted in April 2021 by Essex County



Council for a new 'all-through' school at the Buttleys Lane site<sup>1</sup>. I note this is for a wider 'learning village' project including two form entry primary school provision, a new high school, sixth form centre and ancillary sports facilities. However, the Design and Access Statement for the proposal clearly sets out that it would deliver capacity for 1,350 place secondary school and 250 place sixth form places, capable of replacing existing provision at HRS. In approving the Buttleys Lane site, Essex County Council, as the relevant planning authority, found the scheme accorded with the GDNP.

9. Given the context described above, I am satisfied that the principle of what is being sought through this appeal proposal is long-established and would not be contrary to the development plan. Accordingly, the main issues in this appeal relate to matters of implementation, primarily arising from the scale of what is proposed.

### *Services and Infrastructure*

10. As stated above, since the LPA made its decision, the appellant has submitted a UU containing various planning obligations. The LPA has raised no objection to the content or format of the UU and has separately submitted a compliance statement to justify that the obligations to Uttlesford District Council contained within the UU would meet the legal tests<sup>2</sup>. On this basis, the LPA confirmed at the hearing that the provisions in the UU, if found lawful, would address its reason for refusal pertaining to any conflict with Policy GEN6 of the ULP.
11. In respect of viability, the initial assessment work had made an allowance of £2,500 per dwelling for S106 costs. The viability SOCG presents an agreed cumulative sum for the cost of planning obligations. On viability terms I have no reason to find that the appeal scheme could not deliver the identified planning obligations.
12. Various representations refer to the infrastructure capacity to accommodate additional housing in Great Dunmow, notably in respect of health and transport. There are, however, no representations before me as part of the consultation on either the planning application or the appeal that indicate an infrastructure 'showstopper' that would now preclude an allocated housing site coming forward or that a scheme of up to 200 dwellings at the appeal location would have an unacceptable impact on infrastructure capacity, including the wider highway network. The West Essex NHS Clinical Commissioning Group (CCG) have sought a proportionate financial contribution to expand existing medical facilities in town. This forms part of the planning obligations in the UU.
13. With regards to the various planning obligations contained in the UU before me, I have had regard to the LPAs compliance statement and the representations on the planning application from Essex County Council on transport matters, the CCG, the National Trust and Natural England. I am satisfied that the obligations relating to open space provision and arrangements for its future management are in accordance with development plan requirements and are proportionate to the development proposed. I have therefore taken them into account. Similarly, I also find the obligation for a per property tariff towards visitor management at Hatfield Forest to be necessary for the effective mitigation of potentially adverse impacts on this

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<sup>1</sup> Reference CC/UTT/90/20

<sup>2</sup> Community Infrastructure Regulations 2010 (as amended) – Regulation 122(2)

important habitat and so make the development acceptable in planning terms. The sum sought is fairly and reasonably related in scale and kind to the development and so I have therefore taken the obligation into account.

14. With regards to health infrastructure, there is a demonstrable capacity issue in Great Dunmow and the CCG have set out an identified project to enlarge local surgery provision and have provided a proportional cost that could be fairly attributed to the demand arising from the appeal proposal. I have therefore taken the obligation into account. In respect of transport, the B1008 passes close to the site and the submitted plans for the appeal proposal would include bus stop provision close to the appeal site access. To encourage modal shift, and in the absence of rail provision in the town, bus services provide the best opportunity for medium to long distance journeys for future occupiers of the appeal proposal. I therefore find the identified financial contribution would meet the relevant tests and so I have taken it into account. The same applies for a modest contribution for off-site footway and cycleway connections to ensure the appeal site fully and safely integrates into the existing path network in the town. The site is sustainably located and so foot and cycle represent the best opportunities for modal shift for regular, shorter journeys and so the contribution is justified and therefore taken into account.
15. I therefore conclude on the first part of this main issue that the various obligations contained within the submitted UU are lawful and would appropriately address various infrastructure and environmental demands arising from the appeal proposal. Accordingly, with the submission of the UU and the planning obligations therein, there would be no conflict with Policy GEN6 of the ULP.

#### *Affordable Housing*

16. Policy H9 of the ULP states that on appropriate sites (0.5 hectares or of 15 dwellings or more) the Council will seek to negotiate on a "site to site basis" an element of affordable housing of 40% of the total housing provision, having regard to, including amongst other things, "market and site considerations". Paragraph 6.29 of the ULP provides context for Policy H9 and advises: "The percentage and type of affordable housing on any given site will be subject to negotiation at the time of a planning application, to allow issues of site size, sustainability and economics of provision to be considered." Policy H9 is now of some age such that it is not an 'up-to-date' policy that has been subject to scrutiny as part of a recent, comprehensive plan-wide viability assessment. As such, Policy H9 does not sit within paragraph 58 of the National Planning Policy Framework (NPPF) where development should be expected to meet policy contributions and be assumed to be viable. Whilst I heard from the LPA that they have a good track record in securing 40% affordable housing, viability assessments are nonetheless a material consideration, the weight to be given to them reflecting, amongst other things any change in site circumstances since the ULP was adopted in 2005.
17. As set out above, the most significant change in site circumstances since the ULP has been the adoption of the GDNP as part of the development plan. Policy DS2 of the GDNP is clear that residential development on the site (a minimum of 100 units) should "be enabling development, in order to part fund the development of a new secondary school appropriately located to serve the growing population of Great Dunmow...". Policy DS2 is silent on whether it exempts the site from the requirements of Policy H9, but it patently expects

the site to contribute towards the cost of a replacement secondary school. That is a specific requirement of the HRS site not to be found for other site allocations in the GDNP. As such there are bespoke development plan policy requirements for the HRS site which have a fundamental bearing on viability.

18. Furthermore, I cannot put aside entirely the fact that the recently withdrawn Local Plan for Uttlesford allocated the HRS site for 150 dwellings at submitted Policy GtDun2 for the similar purposes of enabling delivery of a new secondary school and with the express reference to not having to provide affordable housing. I accept that Policy GtDun2 envisaged a lower quantum of development and is now withdrawn but the circumstances that informed the withdrawn plan appear to remain largely unchanged. No one has provided details of a new and significant source of funding that would facilitate the delivery of a new secondary school in Great Dunmow. Additionally, the LPA has not advanced a new Local Plan that might indicate an alternative approach to the site is to be preferred. Accordingly, I give a moderate weight to the most recent planning policy intentions for the site in the withdrawn plan.
19. As set out above, the Viability SOCG has helpfully moved matters forward from the various preceding viability assessments such that all key inputs are now agreed between the two main parties. This results in a positive residual land value of £30.88million. The residual matter in dispute is the approach to benchmark land value (BLV).
20. The Planning Practice Guidance (PPG) on Viability advises that a BLV should be based on Existing Use Value (EUV), the premium to incentivise land release and, for example, any abnormal costs or site-specific infrastructure costs (EUV+). I have little doubt that under normal circumstances, when looking at the residual land value and all other matters being equal, that a BLV based on an EUV+ approach would viably deliver 40% affordable housing at the appeal site. The PPG is an important material consideration, but there will be exceptions that do not neatly fit what is necessarily general national guidance. The PPG advises what BLV should be based on, not what it must be based on in all cases. The difficulty I have with the LPAs approach is that the HRS site carries a very site-specific cost, set out in GDNP Policy DS2, in terms of part funding a new secondary school. As an enabling development, I consider it legitimate to test BLV (the minimum value under which a site would be released to the market) in the context of the prospect and cost of a replacement new secondary school.
21. In terms of delivery, as set out above a site for a replacement secondary school and sixth form centre now has planning permission on land east of Buttleys Lane. As such there is an implementable scheme that can be part funded from the capital receipt from the sale of the HRS site as envisaged in the GDNP. Furthermore, in terms of assurance of delivery, the replacement school scheme would be front funded by the Department for Education (DfE) with an agreement that the net capital receipt from the disposal of the HRS site would go to recouping that investment insofar as it relates to the secondary/sixth form elements only.
22. It is important to tease out the costs associated with just the secondary school, sixth form and associated facilities at the Buttleys Lane site and not to conflate this with a higher figure for total cost of an all-through school including the primary school element. The secondary school part is currently costed by the

appellant at £32.63million. Whilst this figure is disputed by some (not the LPA), I note that it has remained reasonably consistent over the lifetime of the planning application process and is underpinned by a value engineering process and a detailed breakdown is provided<sup>3</sup>. Overall, I have no compelling reason not to treat it as a reliable figure. Accordingly, the cost of providing a replacement high school exceeds the agreed RLV at the HRS site based on the increased capacity of up to 200 dwellings. In headline terms there would be no surplus at this stage, based on the agreed inputs (including sales values and identified S106 costs) for other policy requirements. I am advised that the gap in funding would be met by Essex County Council<sup>4</sup> (as the Local Education Authority) but this would need to be kept to a minimum as there is no elasticity in the public purse to compensate for any reduction in the capital receipt from the HRS site.

23. I have queried whether an element of the capacity of the replacement high school would be needed to support housing growth in the catchment and so could be funded through S106 monies from other housing developments thus reducing the burden on the capital receipt from the HRS site. I am advised that the existing HRS has a potential capacity for 1,593 pupils but only 1,302<sup>5</sup> are currently on the roll. The school submits that this in part due to the physical condition (and attractiveness) of the existing school such that some pupils are selecting to go to alternative schools. As such the planned capacity at the replacement high school at some 1,600 places is intended to largely accommodate the existing roll numbers but also to attract displaced pupils already within the catchment. As such I am satisfied that the cost identified for the replacement school is attributable to meeting existing demand and potential such that S106 funding from other developments is unlikely.
24. As such the HRS site is not a typical development site to which a conventional EUV+ approach to BLV would be appropriate. Its allocation and housing delivery is clearly predicated on being 'enabling development'. The cost of the development to be enabled exceeds the agreed RLV and there are no identified alternative sources of funding. Consequently, there is a legitimate judgement to be made as to whether the benefits of relocating the HRS and funding its replacement outweigh the harm arising from an absence of affordable housing provision.
25. The existing HRS site has evolved incrementally since the first buildings were constructed in 1958. This includes expansion in 1970 and further modest additions in the 1980s and 1990s. The school is now identified as part of a tranche of 61 schools for the DFEs schools rebuilding programme<sup>6</sup> because of its poor physical condition, with two of the main buildings being declared unfit for purpose. Matters have come to point where the cost of continually repairing buildings is questionable in terms of value for public money. As I observed on site and heard from the school representatives, the condition of the school buildings and their ability to provide a standard of facility for modern education presents challenges for both pupils and staff but also the effect it may be having in displacing pupils who are now travelling further afield. There are rooms that too small, the layout in places is constricted and oppressive, space for circulation is poor and some of the buildings are clearly experiencing

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<sup>3</sup> Appendix 6, Mr Fell's Viability Statement for Rapleys LLP, March 2022

<sup>4</sup> Set out in correspondence dated 31 March 2022 at Appendix 15 to Phase 2 Planning Statement of Case

<sup>5</sup> Verbal evidence of Catherine Davis, Headteacher

<sup>6</sup> At July 2022, as per page 8 of Mr Fell's Viability Addendum January 2023

- structural issues. I am also concerned that the dual arrangement of the HRS and the publicly accessible leisure centre on the same site, with a shared access point, creates potential safeguarding issues with little scope to safely segregate pupils on parts of the HRS estate from users of the leisure centre.
26. Overall, the HRS is a tired and operationally inefficient site. The evidence submitted by the Saffron Academy Trust demonstrates that they are not permitted to borrow funding to redevelop or rebuild the existing site and that they have reasonably explored a number of options in this regard without success. In the absence of any serious plan or funding to rebuild or reorganise the HRS on its existing site<sup>7</sup> (a potentially disruptive 2 year programme), the proposed school relocation would present a significant opportunity to improve the secondary school environment in Great Dunmow (and its catchment).
27. The planned relocation of the HRS to the Buttley Lane site would form part of the critical mass to establish an efficient and inclusive new 4-18 years through-school in the town, at a point well-located to serve the expansion of Great Dunmow. As such there would be a significant public benefit in a relocated high school supporting the delivery of new co-located 420 place primary school. I heard from Mr Clarke that an all-through school at the Buttleys Lane site was not the basis for the GDNP and by association the principle for Policy DS2. Whether that was the case or not, the fact remains that planning permission has been granted for a new all-through school at Buttleys Lane including capacity to replace HRS together with a primary school facility to meet the growing need in the town. There are no details before me that expanding the existing HRS site would be a reasonable alternative option to Buttleys Lane.
28. Importantly, I am also satisfied that a new, modern high school would improve educational opportunities and attainment in the local area as a result of the standard and quality of proposed accommodation and without the draw on limited capital resources being deployed on a perpetual repairs programme at the existing HRS site. Moreover, a secure stand-alone school site would provide a safe and protected learning environment. For these educational reasons, funding a new high school, a facility which would be free for the local community, would be a substantial public benefit.
29. Additionally, a new modern high school would be likely to attract some pupils within catchment that are travelling further afield because of potential issues and perceptions with the existing HRS site. This would potentially reduce the need to travel and so there would be a moderate environmental benefit in terms of delivering the new school. Increasing pupil numbers at a relocated high school to where the roll number should be also presents further employment opportunities in Great Dunmow and I give moderate weight to the potential economic benefits in this regard.
30. Bringing this together, I find the ability of the appeal proposal to almost entirely fund a new high school would be a public benefit of substantial weight. In terms of securing this, the submitted UU contains provisions that preclude the disposal of the HRS site until such time as a new school site is operational. The UU also binds the use of the net capital receipt from the disposal of HRS to a replacement school and for no other purpose. In this way, the provisions of the UU would secure the requirements of Policy DS2 of the GDNP including "...a clear and binding commitment, subject only to funding from the release of this

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<sup>7</sup> Saffron Academy Trust letter dated 24 March 2022



site for development, to the provision of a replacement secondary school.” Accordingly, the appeal proposal would genuinely enable development in the wider public interest.

31. As the LPA indicated, in terms of the requirements of Policy H9, a residential development of 200 dwellings should ordinarily be capable of delivering some 80 affordable units (40%). I have no doubt that there is a pressing need for more affordable housing in Uttlesford and this is a priority for the District Council. The LPA confirmed at the hearing that they have a good track record of securing 40% affordable housing in the terms that Policy H9 is not typically creating viability issues. On this basis, it seems to me that the HRS site would be a genuinely exceptional circumstance and not part of any wider pattern of qualifying housing proposals not delivering affordable units. Whilst there would be a harm in not securing affordable housing, that in itself would not be contrary to Policy H9, which recognises that on site to site basis there may be circumstances, including viability, where policy compliant provision may not be possible. The appeal site is demonstrably one of those circumstances.
32. In considering the harm in not providing affordable housing, this would be tempered to some degree by the review mechanism contained in the UU. Necessarily, the UU has applied the RLV agreed between the two main parties as the point from which to review, and I consider that approach reasonable. The review mechanism would enable an early assessment prior to construction that could facilitate on-site provision and a subsequent re-evaluation upon the sale of 75% of the housing which could trigger a financial contribution. On this basis I am satisfied that there would appropriate scope to secure affordable housing were viability to improve. In the circumstances of the appeal, I consider this to be a justified approach.
33. As the appellant emphasises, case law<sup>8</sup> has established that compromises in securing policy requirements can be legitimate and necessary on viability grounds. In this case, because the more up to date GDNP allocates the appeal site on an enabling basis and there is a clear framework and mechanism to deliver a much-needed replacement high school I consider the appeal proposal is justified in its approach regarding the BLV. Applying an EUV+ approach would not enable the delivery of the new high school. The public benefit balance is firmly in favour of securing a replacement high school. Accordingly, there are the exceptional circumstances that negate the provision of affordable housing in the first instance unless the proposed review mechanisms in the UU establish that some form of provision becomes viable over time.
34. I therefore conclude that there are exceptional circumstances in this case that justify what would ordinarily be the subsidy for affordable housing provision being redirected in this case to fund the delivery of a much-needed high school. Accordingly, such a compromise on viability grounds means there would be no conflict with Policy H9 of the ULP.

### *Heritage*

#### *The Newton Hall Assemblage*

35. The heritage significance of the Newton Hall complex, including the Grade II Hall, the separately listed Grade II cottage to the east and the various curtilage

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<sup>8</sup> R v Westminster CC. ex parte Monahan [1990]



listed structures, including the courtyard cottages arrangement closest to the appeal site is the status, scale and architectural quality as a detached country house of moderate grandeur. A tree-lined approach to the Hall extends west from Parsonage Downs, immediately to the south of the appeal site, further reinforcing the prestige of Newton Hall as a country house, detached from settlement and to be experienced in a countryside setting.

36. The LPA has provided historical mapping and records that clearly demonstrate that the appeal site and surrounding land had a functional, historic relationship with Newton Hall. The current openness of large parts of the appeal site closest to the Hall buildings only provide a very limited sense of countryside setting given the highly maintained and somewhat institutional character of the school playing fields, the intrusive presence of floodlit sports courts, external lighting to the leisure centre car park together with the bulky form, scale and utilitarian character of the Twentieth Century HRS and leisure centre buildings further to the east. Nor is the setting particularly preserved at the wider appeal location more generally due to the highly visible encroachment of modern housing to the south of the Hall at Woodlands Park, which when complete will significantly erode the experience of Newton Hall and its ancillary buildings as a stand-alone country house.
37. The scale and architectural quality of the listed Newton Hall house is particularly pronounced on its front, south-facing façade, including a noteworthy, glazed lantern feature in the roofscape. As such, the house and its immediately adjoining buildings were clearly laid out to be principally experienced from the south. This elevation is not towards the appeal site. Due to existing vegetation and the presence of a large, detached garage building to the south-east of the Hall, there would be only a very limited visibility of the appeal proposal in principal perspectives to the south of the Hall. Any intervisibility would be reduced by the proposed landscaping and the setting back of nearest dwellings by a reasonably sized intervening green space at this edge of the appeal site. As such from this important perspective, the heritage significance of the Hall assemblage as a country house would remain largely unaffected.
38. To the east of the listed Hall and cottage are further buildings which due to being within the immediate grounds of the Hall and functionally linked to its historic use should be deemed as curtilage listed. This includes a courtyard arrangement of buildings which now take the form of cottages including a short range that faces directly towards the appeal site. Here boundary vegetation is limited such that there would be direct intervisibility, albeit this would reduce over time with proposed landscaping. Accordingly, the urbanising effect of the appeal proposal would be palpable in the outlook from and in immediate setting of these curtilage listed buildings. On this basis the setting of this part of the Hall complex would be tangibly impinged and adversely affected.
39. The LPA also raise issues of diurnal effects as part of experiencing the Newton Hall assemblage as an isolated country house. As set out above, the encroaching large housing estate to the south would generate significant light and noise impacts at points as equally close to Newton Hall as the appeal site<sup>9</sup>. Given the presence of sports pitches, floodlights, lighting columns and vehicle movements for the leisure centre car park the diurnal environment at the

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<sup>9</sup> See Figure 2 & Paragraph 3.3, Phase 2 Planning Statement of Case, 2022

appeal site, as part of the setting of how Newton Hall is experienced, is already significantly compromised. On this basis I find the appeal proposal would have only a limited diurnal impact on the setting of the Newton Hall assemblage and given the wider context, the impact would not be harmful.

40. Overall, I find there would be some limited harm to the setting of curtilage-listed buildings at the eastern edge of the Newton Hall assemblage. In considering the harm identified, I accept there would be some modest heritage benefit in that a publicly accessible green space in this corner of the appeal site would enable a greater appreciation of the architectural quality of Newton Hall and its curtilage buildings. This benefit, however, would not entirely mitigate the harm identified. The residual harm would be less than substantial, and for the reasons given, it would be towards the lower end of any spectrum of such harm.

#### *Listed Buildings at Parsonage Downs*

41. The appeal site is situated to the west of Parsonage Downs, a pleasant green area, where the original pattern of vernacular buildings fringing around the perimeter of the green can still be discerned. A number of these buildings are Grade II listed. Matters have narrowed such that it was agreed at the hearing that there would be no harm to the setting No.21 Parsonage Down, Herb of Grace and Nos. 29-31 Parsonage Down. Having visited the area and observed the extent of past infilling around these buildings and the consolidation that has arisen from the new large, detached dwellings on Graces Lane I am satisfied that there would be no harm to the setting of these listed buildings from the appeal proposal.
42. Focus therefore turns to the four Grade II listed buildings on Parsonage Downs closest to the existing school entrance, namely Pink Cottage, Friars, No.15 Parsonage Downs and Burntwood Cottage. The heritage significance of these properties is the vernacular architecture and materials and their orientation and relationship around the periphery of a green or common area at what would have been a rural edge to historic settlement pattern at Great Dunmow. Over time, the green at Parsonage Downs and these listed buildings have become subsumed within the wider fabric of Great Dunmow including examples of modern infill housing but more substantially the construction of the HRS, initially in the late 1950s and subsequently expanded, and through other developments including the Great Dunmow Leisure Centre complex.
43. Taller parts of the utilitarian school complex can be seen in the backdrop to these listed buildings in a few perspectives from within the green and the access road to the school and leisure centre is directly between the curtilages of Pink Cottage and Friars. More widely, any sense of openness at the playing fields to the north-west is not prominent in the setting of these listed buildings due to the intervening school buildings and mature vegetation. Any perception that the existing HRS site and use preserves a rural openness or tranquillity as part of how these listed buildings should be experienced is negligible, being further eroded by the extensive vehicle movements, noise and external lighting associated with the school and leisure centre uses.
44. Whilst the appeal proposal would bring built form slightly closer to the curtilage of the listed buildings there would remain an appreciable degree of separation, in large part due to a proposed landscaped buffer along the eastern edge of the appeal site. This landscaping would tie-in with the verdant garden and treed

setting to the rear of these listed buildings. Whilst there would be some development at 2½ - 3½ storeys and a moderate density to the overall development (only 34 dwellings per hectare (net)), the proposed housing would not be as visually obtrusive as the existing taller school buildings (comparable in places to 4 storeys) in the setting of these listed buildings. The principal relationship of these buildings to Parsonage Downs would not be affected and they would remain to be read as traditional buildings conceived to fringe around the periphery of this historic green open space. Overall, I find the setting of these listed buildings closest to the existing HRS site would be preserved.

#### *Great Dunmow Conservation Area (GDCA)*

45. Parsonage Downs is at the northern end of the Great Dunmow Conservation Area (GDCA), a widely drawn area which includes most of the pre-Twentieth Century settlement pattern of the town. The heritage significance of the GDCA is the historic settlement pattern in this part of the rural Chelmer valley encapsulated in the arrangement of vernacular buildings and later Eighteenth and Nineteenth Century consolidation, and what would have once been a nearby rural satellite of settlement and green on higher land at Parsonage Downs. The appeal site is immediately to the west of the GDCA such that the existing school entrance gates are on the boundary. Whilst the sense of Parsonage Downs as a historic green space with ponds, trees and open grassland remains evocative it is nonetheless now largely enveloped by development including examples of modern infilling and by the HRS site to the west such that any wider rural character has been reduced.
46. There is very limited intervisibility with the wider appeal site when standing on those parts of the green/common in the GDCA due to intervening housing and mature vegetation. As described above, the taller parts of the existing school buildings in the form of the utilitarian blocks can be glimpsed and appear at odds with the mixed residential and verdant character and appearance of this part of the GDCA. I also observed activity associated with the school at the PM peak including significant volumes of traffic, people and buses congregating around the Parsonage Downs approach to the school. Additionally, the Leisure Centre adjacent to the HRS site draws traffic and people through this part of the GDCA, including in the evenings. The floodlit sports pitches and the car park to the leisure centre are only a short distance from the GDCA boundary. As such I find existing uses mean this part of the GDCA is not particularly tranquil and with urban influences on the diurnal environment.
47. Given the circumstances described above I do not find the appeal site makes a positive contribution to the setting of the GDCA. There is little, if at all, when within the GDCA of the school playing fields providing a sense of openness that tangibly denotes or reinforces what would have been the original rural context for the satellite settlement around Parsonage Downs. This is in large part a consequence the scale, massing, and intensity of use of the existing school and leisure centre complex. Through a combination of reducing the scale of built form on that part of the appeal site currently occupied by the main school buildings closest to the GDCA and through the proposed extent of setting back and landscaping there would be no discernible impact arising from a development of up to 200 dwellings on the quasi-rural elements of the character of this part of the GDCA. The removal of the taller school buildings would represent a minor enhancement to the setting of the GDCA. In terms of

the impacts on aspects of character relating to tranquillity and diurnal effects I find an overall neutral impact with some of the intensity associated with school use removed but replaced by lower levels of vehicle movements, noise and external lighting albeit over a longer period. Given the enveloping residential character around this part of Great Dunmow, I find the proposed amount and extent of housing development at the appeal site would not be harmful in appreciating the heritage significance of this part of the GDCA.

### *Heritage Conclusions*

48. To conclude on heritage, I find the appeal proposal would preserve the character of the GDCA and the setting of the historic rural green/common at Parsonage Downs would not be adversely affected. Additionally, it would not harm the setting of those listed buildings to the east of the site. There would, however, be less than substantial harm, to the setting of the Newton Hall assemblage to the south-west of the appeal site. This harm would be at the lower end of any such spectrum. In light of this harm, the proposal would conflict with Policy ENV2 of the ULP which states that development affecting a listed building should be in keeping with its scale, character and surroundings.
49. Policy ENV2 predates the NPPF by some margin such that it is not consistent with national policy and the balanced approach now set out at paragraph 202 of the NPPF. As such, I only give moderate weight to any of conflict with Policy ENV2. That said, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) places a statutory duty to pay special regard to the desirability of preserving a listed building or its setting. Consequently, it is incumbent that I attach considerable importance and weight to the harm that has been identified. I return to this in the heritage balance in the final concluding section of this decision.

### *Other Matters*

50. In terms of impact on wider character in this part of Great Dunmow, the appeal site currently has a functional, institutional nature due to the formally laid out sports pitches and courts, floodlights, car parking and the school buildings and leisure centre. Due to adjacent new housing at Graces Lane, Woodlands Park and Woodlands Meadow, it is not a semi-rural location. The plans for approval before me including appreciable areas for green infrastructure including public open space which would help the site integrate with adjoining pockets of woodland and allow for a meaningful green buffer from neighbouring housing. The resulting net developable areas would deliver at a typical density for modern housing in country town locations. Overall, I consider there would be no harm to wider character and appearance from the uplift in the number of dwellings compared to the GNDP allocation figure. At this outline stage, based on the plans for approval at this stage, the appeal proposal would broadly accord with the site requirements in Policy DS2 of the GNDP including green buffers at the site edges and an attractive central open green space.
51. There are several dwellings that have openings and rear gardens orientated towards the appeal site. The outlook for these properties would change with the loss of the openness of the playing fields but this change has been established as part of the plan-led approach in the GNDP. I observed that the topography of the appeal site slopes down from south to north such that the existing playing fields are terraced with the northern parts of the appeal site slightly above adjoining land levels. A significant part of the northern section

of the site would be fixed as part of plans for approval at this outline stage as a green corridor and a further green buffer is established along the eastern side of the appeal site. As such I find there would be ample separation distances between existing and proposed housing. Concern is raised about a footpath, cycleway within the eastern green buffer but with appropriate landscaping within what is a reasonably generous corridor there would be no significant harm in terms of loss of privacy in properties and rear gardens to the east. Overall, I find the appeal proposal would not give rise to unacceptable impacts on living conditions of the occupiers of surrounding dwellings.

52. Part of the appeal site fringes into Frederick's Spring, a remnant of ancient woodland and Local Wildlife Site to the west. The plans before me would retain that part of the woodland within the appeal site and provide for some buffering within a wider green area through the centre of the site. Various species have been identified at the appeal location and I am satisfied these could be appropriately accommodated and harm avoided through various measures secured by condition where necessary and I deal with this below. I am also satisfied the proposal has the potential to secure biodiversity net gain. Ultimately, subject to conditions being imposed, the proposal would not result in unacceptable harm to local biodiversity in and around the site.
53. More widely, it is recognised that occupiers of the proposed homes could be attracted to visit nearby Hatfield Forest, a publicly accessible landscape which is also a nationally recognised Site of Special Scientific Interest (SSSI). On the evidence before me, including from Natural England and the National Trust, the impact of potential adverse effects arising from visitor numbers generated by the appeal proposal could be mitigated through a combination of on-site open space and connectivity (for example, space and networks for dog walking) and through a per property tariff contribution to measures at Hatfield Forest. The tariff is proposed to be secured through the UU, which I have addressed above. Whilst layout and landscaping remain detailed matters for separate determination, from the proposed land use framework plan for approval at this stage, the appeal site would allow for attractive green spaces on the appeal site and connectivity to a wider network of paths and green spaces. On this basis I am satisfied that the appeal proposal would not result in an adverse effect on the biodiversity of Hatfield Forest SSSI.
54. As set out above, amended plans were submitted with the appeal which satisfy LHA requirements regarding visibility at the B1008 and Parsonage Downs junction having regard to the highway conditions including the 30mph speed limit (which has been measured at 34mph at the existing 85% percentile speed). Consequently, there is little to demonstrate that the proposed use of the existing Parsonage Downs junction would be unsafe. The proposal is also accompanied by a Transport Assessment which has compared existing vehicle movements associated with HRS and those likely to be generated by the appeal proposals using the widely recognised TRICS<sup>10</sup> database and other sources. Perhaps, unsurprisingly, the twice daily peaks associated with the HRS are generally smoothed out and whilst the appeal proposal would result in a net increase in vehicle movements over the course of the day, the difference would be modest given the reasonable prospect that residents at the appeal proposal could safely and reasonably walk or cycle to a good range of facilities in Great Dunmow. I attach significant weight to the absence of a highway safety

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<sup>10</sup> Trip Rate Information Computer System



objection from the LHA subject to the imposition of conditions and contributions to support modal shift. Having regard to paragraph 111 of the NPPF this is not an instance where development should be refused on highways grounds.

55. I have representations before me from 1 Life, who operate the Great Dunmow Leisure Centre under a Private Finance Initiative (PFI) arrangement with Uttlesford District Council. The operator is concerned that the relocation of the school would harm the sustainability and viability of the leisure centre and potentially infringe the terms of the PFI contract. The latter would be a separate private contractual matter and not a material planning consideration. Whether the appeal proposal would result in a social harm in terms of impacting operations at the Leisure Centre, there is very little to substantiate this. The principle of the appeal proposal (relocating the HRS) conforms with an allocation in the adopted development plan. I have nothing before that circumstances in relation to the operation of the leisure centre have materially changed since the GDNP was adopted. In terms of the 'agent of change' principle, detailed matters of layout and design for the proposed housing would have to respond to the leisure centre, the external courts and floodlighting and the lawful hours of operation. This can be secured by condition. Overall, I find there would be no social harm in terms of impacts on the leisure centre.
56. In December 2022 the LPA issued its five-year housing land supply position statement as of 1 April 2022 asserting a supply of 4.89 years. There is no dispute between the main parties that the housing requirement should be based on the latest Local Housing Need figure of 693 dwellings per annum plus a 5% buffer to reflect recent delivery performance. The appellant disputes the scale of deliverable supply and the extent of evidence behind the LPAs position statement against the requirements in the PPG<sup>11</sup>, notably in relation to several large outline planning applications in the district. From all that is before me, there is some force to the appellant's assessment of deliverable supply, including the need for more judicious lead-in times and delivery rates on larger outline planning permissions and otherwise a general lack of the evidential threshold set out in the PPG including agreed delivery statements with site promoters and/or developers.
57. The LPA have not sought to rebut the appellant's evidence and suggested at the hearing that to some extent the consequence is immaterial, in that both parties agree there is not a requisite deliverable supply such that paragraph 11d) of the NPPF would be engaged. I return to the matter of the overall balances to be applied below, but conclude here based on the evidence before me, that the deliverable housing land supply to be closer to the 4 years invited by the appellant. The consequence of this is that the appeal proposal would make a significant contribution towards meeting housing need and given the extent of the shortfall identified, the public benefit arising from additional new homes should be given very significant weight in any balancing exercise.

### **Balances and Conclusion**

58. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permissions be determined in accordance with the development plan unless material considerations indicate otherwise. As set out I have found that there would be no conflict with Policies GEN6 and H9 of the

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<sup>11</sup> Paragraph 68-007-20190722



ULP. The principle of what is proposed would be in accordance with the more up to date GDNP at Policies DS1 and DS2.

59. In relation to heritage assets, there would be less than substantial harm to the Newton Hall listed assemblage to the south-west of the appeal site. I have determined this harm to be at the lower end of any spectrum of less than substantial harm. In accordance with paragraph 202 of the NPPF such harm should be weighed against any public benefits of the proposal. I have set out above (at paragraph 49) the basis that even though the harm is at the lower end of less than substantial, this harm must be given great weight.
60. On the other side of the balance would be various public benefits. This includes the appeal proposal funding the delivery a new, modern fit-for-purpose high school to serve the community of Great Dunmow and its catchment, with the real prospect of improving educational attainment and experiences. The relocation of the HRS to Buttleys Lane also creates important critical mass to support the delivery of a needed all-through school with wider public benefits in terms of NPPF paragraph 95 and the need to give great weight to providing sufficient school places. I therefore give the social and economic benefits of a new replacement secondary school substantial weight.
61. The proposal would also deliver up to 200 new homes in the context of a notable shortfall in the supply of deliverable housing land. The scale of a development of up to 200 homes would enable a good variety of dwellings to help meet the needs of different groups. This would amount to a social benefit of very significant weight in the context of NPPF paragraph 60 and the need to boost the supply of homes. Additionally, the appeal proposal would enable the implementation of a public footpath/cycleway north-south through the site connecting new housing developments in this part of Great Dunmow and I give this environmental benefit moderate weight. On this basis I am satisfied that the public benefits in this case clearly outweigh the identified heritage harm. Accordingly, in turning to the application of paragraph 11(d) of the NPPF (and footnote 7), there is no clear reason to refuse the development proposed.
62. On the wider tilted planning balance, there are no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the development plan when taken as a whole. Whilst the lack of affordable housing would be harmful in light of a need for such housing in Uttlesford, exceptional circumstances have been made out in this case in terms of the public benefit of the value from the sale of the appeal site serving no other purpose than to fund delivery of a modern, attractive high school for the wider local community as planned for in the locally determined GDNP. Overall, the appeal proposal would amount to sustainable development, for which there is a presumption in favour of, and planning permission should be granted.
63. I have taken into account all other considerations, but there is nothing that leads me to conclude other than the appeal should be allowed for the reasons given.

#### *Conditions*

64. A list of proposed conditions was provided in advance of the hearing, without prejudice, in the event of planning permission being granted. I have considered the suggested conditions having regard to the PPG on the use of conditions and paragraphs 55 and 56 of the NPPF. Given the outline nature of

the proposal, a notable number of pre-commencement conditions are proposed. The appellant has provided their written agreement to the pre-commencement conditions in the terms sought by Section 100ZA(5) & (6) of the Town & Country Planning Act 1990 (as amended).

65. In addition to the standard time limit conditions (2 & 3) for the submission of reserved matters and commencement of the development, a condition (1) defining the remaining reserved matters to be approved and a condition (4) requiring the development is carried out in accordance with the plans and details approved at this stage are all needed in the interests of proper planning and for the avoidance of doubt. To achieve a well-designed place and ensure a satisfactory appearance a condition (5) requiring details and samples of external materials is necessary. I have amended the wording slightly to clarify that these details should be submitted up and until the plots have reached slab level so as not to delay early demolition and site preparation works.
66. Conditions (6, 7 & 8) are proposed to ensure the development would not be at risk of flooding or increase flood risk elsewhere. All are necessary, and conditions 6 & 7 are necessarily pre-commencement conditions, in order to ensure that the development is designed at the outset to ensure surface water can be managed appropriately and for the development to accord with Policy GEN3 of the ULP and national planning policy on climate change and flooding. Having regard to biodiversity at the appeal location and the evidence provided as part of the planning application, including the submitted Ecological Impact Assessment, various conditions (9, 11, 12, 13, & 14) are all necessary to ensure that identified species at or around the site are protected and appropriate biodiversity enhancement measures are secured in accordance with relevant legislation<sup>12</sup>, applicable Regulations and Policies GEN2 and GEN4 of the ULP. Given the sensitivity of some species at the appeal location a number of these conditions are necessarily pre-commencement so that appropriate measures can be taken at the earliest stages.
67. A condition (10) requiring a construction and environmental management plan is necessary to ensure that works take place in a way which protects the amenities of nearby dwellings and highway safety. This is necessarily a pre-commencement condition so that measures are agreed and where necessary in place before any work, including demolition, starts. A number of conditions (15, 16, & 17) are all necessary for highway safety and to ensure that the development comes forward in accordance with the timely implementation of approved details. These conditions are all necessary given that access is not a reserved matter. To ensure modal shift opportunities are maximised at what is otherwise a sustainable location, conditions (18 & 19) are necessary to implement effective travel planning. A condition (20) requiring 5% of the housing is built to wheelchair adaptable standards (M4(3)(2)(a)) and the remainder is built to an accessible homes standard (M4(2)) is necessary to ensure that the proposed homes are built to an appropriately high standard and are readily adaptable over time if the need arises.
68. Notwithstanding the submitted surveys and Phase 1 report, I have imposed a condition (21) to require further assessment of contamination and remediation if required given the use of the site and the age of the buildings. This condition is necessary to protect the well-being of future residents and the environment

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<sup>12</sup> Primarily Section 40 of the Natural Environment and Rural Communities Act 2006

more generally. I have also imposed a condition (22) to reflect the 'agent of change' principle given parts of the appeal site are close to the leisure centre complex including its outside sports courts. The new homes should be insulated from noise accordingly so as to protect the amenities of future occupiers and not impinge or restrict the lawful use of the leisure centre. In light of the representations from the Environment Agency at the planning application regarding available treatment capacity at the Great Dunmow Water Recycling Centre, I have imposed their recommended condition (23) regarding the submission of details of a scheme for foul water disposal. This was discussed at the hearing and there was no objection to its inclusion. I have, however, not imposed the suggested condition requiring details of electric vehicle charging arrangements for each dwelling as this is now covered by Part S of the Buildings Regulations.

*David Spencer*

Inspector.

#### APPEARANCES

##### FOR THE APPELLANT:

Dr Ashley Bowes – Of Counsel  
Michael Calder – Director, Phase 2 Planning  
Katie Dickson – Heritage Consultant  
Nick Fell – Rapleys LLP (for viability matters)  
Catherine Davis – Headteacher, Helena Romanes School  
Paul Wilson – Director of Finance, Saffron Academy Trust  
Jo Lilliot – Solicitor, Holmes & Hills (for S106 matters)  
Paul Calder – Real 8, Infrastructure Planning

##### FOR THE LOCAL PLANNING AUTHORITY:

Nigel Brown – Head of Development Management & Enforcement  
Thomas Muston – Built Heritage Consultant, Essex Place Services  
Bradley Tollon – Senior Development Consultant, Altair (for viability matters)

##### INTERESTED PERSONS:

Tony Clarke – Local Resident  
Keith Exford CBE – Local Resident  
Rev Mark Hayes – Chair of School Governors, Helena Romanes School

##### DOCUMENTS received at the hearing:

Doc 1. Statement from Mr Clarke

##### DOCUMENTS received after the hearing:

Doc 2. Completed Unilateral Undertaking received 1 March 2023

Doc 3. Appellant's written agreement, dated 1 March 2023, to the terms of proposed pre-commencement conditions.

## **SCHEDULE OF CONDITIONS**

1. Approval of the details of layout, scale, landscaping, and appearance (hereafter called "the Reserved Matters") must be obtained from the Local Planning Authority in writing before the development commences and the development must be carried out as approved.
2. Application for approval of the Reserved Matters must be made to the Local Planning Authority not later than the expiration of three years from the date of this permission.
3. The development hereby permitted must be begun no later than the expiration of two years from the date of approval of the last of the Reserved Matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the submitted documents and the following approved plans:
  - Site Location Plan 1228.001.02
  - Development Framework Land Use Parameter Plan 202.03
  - Building Heights Parameter Plan 203.03
  - Access Plan 198130-001B
  - Access Visibility 198130-005C
5. No development above damp-proof course level, in a particular phase, shall commence until full details/samples of the external surfaces of the development hereby permitted shall been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.
6. No works except demolition shall takes place until a detailed surface water drainage scheme on the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
  - Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
  - Limiting discharge rates to 2.9 l/s for all storm events up to and including the 1 in 100-year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
  - Final modelling and calculations for all areas of the drainage system.
  - Detailed engineering drawings of each component of the drainage scheme.
  - A final drainage plan which details exceedance and conveyance routes.
  - FFL and ground levels, and location and sizing of any drainage features.

- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

7. No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and to prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.
8. Prior to the first residential occupation of the development hereby permitted, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies and annual monitoring, shall be submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided. Subsequently, the development shall be carried out strictly in accordance with the approved maintenance arrangements with maintenance monitored annually.
9. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior occupation of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer or successor in title with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

10. Prior to the commencement of the development, a detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority, and the plan shall include the following:
- a) Hours of operation, site office locations, delivery, and storage of materials details.
  - b) Vehicle parking, turning, and loading arrangements.
  - c) Construction Traffic Management Plan.
  - d) Construction Dust Management Plan including wheel washing measures to control the emission of dust and dirt during construction including on the public highway.
  - e) Waste management plan.
  - f) Measures to limit noise and vibration from construction activities.
  - g) Risk assessment of potentially damaging construction activities.
  - h) Identification of 'biodiversity protection zones'.
  - i) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
  - j) The location and timing of sensitive works to avoid harm to biodiversity features.
  - k) The times during construction when specialist ecologists need to be present on site to oversee works.
  - l) Responsible persons and lines of communication.
  - m) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
  - n) Use of protective fences, exclusion barriers and warning signs.
  - o) A scheme for early structural planting.
  - p) Measures to provide temporary localised surface water run-off management systems for construction stage activities.
  - q) A soil management plan for construction stage activities.
  - r) A Bird Hazard Management Plan (BHMP) to minimise the risk of bird strike.

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

11. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Hybrid Ecology, July 2020) already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Including mitigation measures to offset the potential for recreation impacts on the Hatfield Forest SSSI and NNR, such as: high quality informal and semi-natural areas; circular dog walking routes >2.7km and/or links to surrounding public rights of way; signage/leaflets to householders to promote these areas for recreation and dog waste bins.

12. The development shall not commence unless the local planning authority has been provided with either:



- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified;
- b) confirmation of the site registration and a method statement supplied by an individual registered to use a Low Impact Class Licence for Bats; or
- c) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.
- d) a licence issued by Natural England pursuant to the Protection of Badgers Act 1992 authorising the specified activity/development to go ahead; or
- e) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

13. Prior to the commencement of the development hereby permitted a Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the local planning authority following the recommendations made within the Ecological Impact Assessment (July 2020). The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

All ecological mitigation and enhancement measures and/or works shall be carried out in accordance with the approved strategy and enhancement measures shall be retained thereafter.

14. Prior to installation of any external lighting a lighting scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances shall any other external lighting be installed without prior written consent from the local planning authority.

15. Prior to occupation of the development, the access, provision as shown in principle on submitted drawing 198130-001 rev B and 198130-005 rev C shall be provided, including a carriageway of minimum width 5.5m and footway on the southern side of minimum width 2m, traffic calming measures, clear to ground visibility splays with dimensions of 2.4 metres by 77 metres to the north and 2.4 by 45m to the south, as measured from and along the nearside edge of the carriageway such vehicular visibility splays shall retained free of any obstruction at all times thereafter.

16. Prior to occupation the bus stops and associated drop kerb crossings on either side of the B1008 as shown in principle on drawing number 198130-005 rev C shall be provided, the bus stops shall comprise (but not be limited to) the following facilities: shelters; seating; raised kerbs; bus stop markings; poles and flag type signs, timetable casings.
17. Prior to first occupation (or at an appropriate phase of the development construction agreed with the planning authority) the internal footway/cycleway shown in principle in drawing number 202.03, with a minimum width of 3.5m shall be provided. At the northern end it shall link to the footway cycleway in Woodlands Park Sector 4 to the south it shall provide a connection to the access and Great Dunmow Leisure centre.
18. Prior to first occupation of the proposed development, the Developer shall submit a residential travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall then be actively implemented by a travel plan co-ordinator for a minimum period from first occupation of the development until 1 year after final occupation.
19. Prior to first residential occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.
20. 5% of the dwellings approved by this permission shall be built to Category 3 (wheelchair user) housing M4(3)(2)(a) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition. The remaining dwellings approved by this permission shall be built to Category 2: Accessible and adaptable dwellings M4(2) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.
21. No development shall take place until an assessment of the nature and extent of contamination has been submitted to and approved in writing by the Local Planning Authority.

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

The remediation scheme for each phase shall be implemented in accordance with the approved timetable of works. Within 2 months of the completion of measures identified in the approved remediation scheme, a validation report

demonstrating that the remediation objectives have been achieved must be submitted to and approved in writing by the Local Planning Authority.

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

22. Before development commences details shall be submitted to and approved by the local planning authority in writing of sound insulation measures to be undertaken to insulate from noise the dwellings hereby permitted. No dwellings shall be occupied until the approved scheme has been completed and written confirmation has been received from the Local Planning Authority. Thereafter the sound insulation measures shall not be changed without the prior written agreement of the local planning authority.
23. The development shall not be commenced until a statement has been provided, and approved in writing by the Local Planning Authority, detailing the proposed method of disposal of foul water which addresses the capacity issues at Great Dunmow Water Recycling Centre. The scheme shall be implemented as approved.

Schedule ends.

**Appendix G – Freedom of Information Request – Ref. 23-249**

**Subject: Freedom of Information Request – Reference No: 23-249**

Thank you for your request for information, which has been considered and actioned under the Freedom of Information Act 2000. The information you requested is shown below with the responses in **bold – NB only figures not previously provided have been included for historic data please see response to FOI 22-207 and FOI 21-190:**

I wish to request the following:

- Past delivery rates (over the last 3-5 years) of Affordable Housing by size and tenure;

**Affordable completions:-**

Year	Affordable rent	Shared ownership	Totals
2022/23	<b>65</b>	<b>43</b>	<b>108</b>

- The Current number of persons on the Council Waiting List;

**1299 (505 in bands A to D) as at 25/4/22**

- The number of people of the waiting lists for the last 3-5 years;

**See response to FOI 22-207**

- Number of people expressing and need/connection with Takeley/Little Canfield;

**229 applicants upon the register for Takeley of which 94 are in bands A to D. A total of 27 with a local connection to Takeley of which 7 are in bands A to D. 191 applicants upon the register for Lt Canfield of which 76 are in bands A to D. A total of 19 have a local connection to Lt Canfield of which 11 are in bands A to D.**

- Any information on shared ownership need at present and over the past 3-5 years.


**See response to FOI 21-190 and now that the Help To Buy Agents have ceased shared ownership need is not collected by any agency**

I am also seeking to obtain any data on households on the self build register for the district and again past delivery. If this is a different department, please could you advise who is best to contact.

**Contact Demetria Macdonald [REDACTED] Planning Policy Officer, who responded to this part of the request for FOI 21-190.**

Please do not hesitate to contact me if you have any further queries or concerns.

If you are dissatisfied with the response to your request, please let us know. If we are unable to resolve the matter quickly then you may wish to pursue this through the Councils complaints procedure and request an internal review be undertaken. Internal review requests should be submitted within 40 working days of the date of receipt of the response to your original letter and should be addressed to: [foi@uttlesford.gov.uk](mailto:foi@uttlesford.gov.uk).

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Telephone: 0303 123 1113 or 01625 545 700 Website: 



**Appendix H – Letter from DLUHG to UDC (Dated: 27<sup>th</sup> July 2022)**



Department for Levelling Up,  
Housing & Communities

Simon Gallagher  
Director of Planning

Department for Levelling Up, Housing &  
Communities

Third Floor, Fry Building  
2 Marsham Street  
London, SW1P 4DF

[www.gov.uk/dluhc](http://www.gov.uk/dluhc)

27 July 2022

Uttlesford District Council  
[Via Email]

Dear Chief Executive,

**Local planning authority designation under section 62A of the Town and Country Planning Act 1990**

I am writing to you to let you know the latest statistics on the quality of decisions with which planning applications for major and non-major development have been determined over the two years to March 2021 were published on 21 July. They are available here: [h \[REDACTED\]](#)

The 2021 threshold for designation is **over 10%** of an authority's decisions on applications for major and non-major development made during the assessment period, including those arising from a 'deemed refusal', being overturned at appeal. This is set out within the updated designation criteria that were laid before Parliament in December 2020 (available here: [\[REDACTED\]](#))

The statistics show that your authority had 17.1 per cent of decisions on applications overturned at appeal for major development. As such, the Local Planning Authority continues to exceed the 10% threshold for decisions on applications for major development made during the assessment period.

I would be grateful if you could inform us whether any adjustments are required to correct any errors or omissions in the published data. Please use the attached spreadsheet to record the corrections. Clear evidence with supporting justification should be provided in respect of any proposed corrections submitted.

On 8 February 2022, the Secretary of State exercised the powers conferred by section 62A of the Town and Country Planning Act 1990 to designate Uttlesford District Council in respect of applications for planning permission for major development. This designation had effect from 8 February and remains in force until revoked. As the current designation remains in force, we will be taking no further action.

I welcome the work that Uttlesford District Council has already undertaken with Government Officials and the Planning Advisory Service to review the planning service and implement actions for performance improvement. The Council is required to formally submit a Performance Improvement Action Plan to the Department for approval and I would request that this is provided as a matter of priority.

Any material in response to these points should be directed to Fionnuala Wolff [REDACTED]  
[REDACTED] or Stephen Gee ([REDACTED])  
[REDACTED] and arrive no later than 11 August 2022.

I am copying this letter to your Chief Planner.

Yours Sincerely,

[REDACTED]

Simon Gallagher

**Appendix I – Letter from ECC Infrastructure to Weston Homes (Dated: 12<sup>th</sup> April 2023)**

Essex County Council  
Planning and Development  
CG05, County Hall  
Chelmsford  
Essex CM1 1QH



Weston Homes Plc  
Weston Group Business Centre, Parsonage Road  
Takeley  
Essex  
CM226PU

Our ref: 48518  
Your ref: David Poole  
Date: 12/04/2023

Dear Sir or Madam

**Warish Hall Farm, Takeley  
Without Prejudice -**

WITHOUT PREJUDICE

Thank you for providing details of the proposed development on land at Warish Hall Farm, Takeley and for attending a virtual meeting on 2nd March 2023. Please accept my apologies for the delay in issuing this response.

You have requested pre app advice on the current and projected capacity of schools in the Takeley area and made reference to consultation comments made on recent application UTT/22/3126 and a Public Inquiry that took place last year relating to the wider area, (Appeal reference APP/C1570/W/22/3291524). The appeal was dismissed.

You advised of your proposal as set out on Dwg No.WH202\_10\_P\_20 Rev B Master Plan-General Arrangement and the proposed additional school land, measuring approximately 1ha, and outlined in red on said plan.

You made reference to the Statement of Common Ground with Essex County Council Infrastructure Planning, (Document WH202, dated May 2022) submitted in support of the Appeal referred to above, and ECC's request for land to facilitate the expansion of Roseacres Primary School.

As noted, Uttlesford's submitted draft Local Plan was withdrawn, and a new strategic plan for school places will need to be drawn up once a revised spatial strategy emerges. However, this does not prejudice ECC's advice and comments at this time.

As advised at the meeting, ECC would request the 1ha (approx.) area of land is provided to facilitate the expansion of Roseacres Primary School from 1fe to 2fe and to mitigate the demand generated by the proposed development. It is not known at this time when the land would be required, therefore, a standard 10year option period would be needed. Further discussion will be required to ensure this is captured in any proposed legal agreement.

ECC have no concerns relating to the proposed location of the education land. A Land Compliance Study (LCS) would be required (refer to The Essex County Council

Developers' Guide to Infrastructure Contributions, (Revised 2020)) to address requirements on site e.g. but not limited to, levels, utilities, contamination, vegetation; This should be submitted as part of the planning application, and, or, discussed with ECC Infrastructure Planning Team prior to submission. The LCS will be reviewed by ECC's Infrastructure Delivery Team and comments provided.

A vehicular entrance from the northern boundary of the additional land would be required to provide access for emergency and maintenance vehicles. An Education Site Access Plan is to be agreed in writing with ECC and should ensure there are no ransom strips that would prevent access to the additional land; access should be from publicly maintainable highways / adopted roads with no encumbrances for maintenance etc.

Reference was made to financial contributions. Please be advised that there has not been any detailed discussion with the Early Years & Childcare, Post 16 or Special Educational Needs teams, or libraries, in relation to this response.

The additional land, and associated land transfer to ECC, is considered to mitigate the requirement for a financial contribution towards primary education. However, a contribution toward secondary education, and possibly secondary school transport, will be required.

Please note that The Essex County Council Developers' Guide to Infrastructure Contributions is being reviewed and updated and is currently subject to consultation. The current version can be found on the following link:

Developers Guide Infrastructure Contributions (PDF, 2.98MB)

I trust this information is of assistance. Should you require any further discussion please do not hesitate to contact me.

Yours faithfully

  
Anne Cook  
Infrastructure Planning Officer

Telephone   
E-mail 



**Appendix J: Summary of proposed public benefits**

Economic Benefits	
Benefit	Attributing Weight
Supply and Construction Employment	The scheme will involve investment in the purchase of materials and labour, supporting direct jobs (in the construction sector) and indirect jobs (through the supply chain) as well as economic output (as measured by gross value added – the difference between the outputs produced and the inputs, such as raw materials). A proportion in the investment in materials and labour will be retained within the local economy, supporting the local construction industry and its supply chain. This is a substantial economic benefit for construction and supply chain companies within the area which should attract <b>limited weight</b> .
Spending from new residents	According to the ONS Family Spending Survey (2021), the average household expenditure across the East of England is £607.70 per week, equivalent to £31,600 per annum. This includes spending on convenience (food and drink) and comparison goods (clothing, footwear and household goods) as well as recreation, culture and restaurants. This amounts to residential spending of over £5.9 million per year. It is reasonable to expect that a proportion of this spending will be retained locally. The provision of new custom to marginally viable services and local enterprises, particularly in the short – medium term is likely to be welcomed. This will help attract, sustain and retain local facilities including for example at Priors Green where there is a parade of small shops but also at the Four Ashes. As such this is a public benefit which should be afforded <b>limited weight</b> .
Additional tax receipts and New Homes Bonus directed by UDC	Council Tax is a tax on domestic property. The proposed development of 96no. residential units will generate additional Council Tax payments to Uttlesford District Council.  The New Home Bonus is a grant paid directly by central Government to local councils to reflect and incentivise housing growth in their areas. Assuming Uttlesford meets the baseline level of growth required (0.4%), the proposed development would generate a substantial New Homes Bonus payment which is a benefit of the scheme which should be afforded <b>significant weight</b> .
Social Benefits	
Benefit	Attributing Weight
Provision of 96no. new homes	The Application scheme is deliverable and Weston Homes have a demonstrable track record of seeking to develop all of the sites it acquires for development and for which it obtains planning permission. It can therefore be argued with a high degree of certainty that the scheme will make an important contribution to housing supply within the next five years (and beyond).  It is difficult to overstate the importance of housing provision in Uttlesford given the current lack of a five-year housing land supply, especially where a new local plan – which would address this lack of supply – is some years from adoption, likely to be 2024 at the earliest.  Accordingly, the schemes provision of much needed housing should be attributed <b>significant weight</b> .
Provision of 39no. affordable homes	As above, the application proposes as deliverable scheme which includes much needed housing including affordable housing. There is a pressing need for affordable housing in the District, which is evidenced on UDCs waiting list, which as of 25 <sup>th</sup> April 2023 stood at 1299 people. It is clear that the delivery of much needed affordable housing is a significant benefit which again should be attributed <b>significant weight</b> .
Support for long term vitality and viability of communities	Paragraph 79 of the NPPF sets out that housing should be located where it will enhance or maintain the vitality of rural communities. This scheme looks to provide a number of benefits which will seek to enhance the long term vitality and viability of Takeley and Little Canfield which is a benefit of the scheme which should be attributed <b>limited weight</b> .

Provision of public open space	<p>The need to commensurate community infrastructure alongside much needed housing is often raised by third parties as such Weston Homes has sought to engage with stakeholders to include a generous provision of on-site public open space in excess of the standards suggested by Fields in Trust.</p> <p>The provision of open space above the standards normally applied to development within the district is considered a significant benefit to the public which should be afforded <b>significant weight</b>.</p>
Healthcare contribution	As part of the proposals, a contribution towards healthcare in the area will be secured which will go towards improving local healthcare facilities and ensure they have capacity for growth. This is a benefit of the scheme which attracts <b>moderate weight</b> .
Land for the expansion of Roseacres Primary School	<p>As set out in the letter from ECC Infrastructure are aware of the future need to expand Roseacres Primary School. Due to its location, it is constrained by way of only being able to expand outwards to the north (within the Application Site). As part of public consultation undertaken by Weston Homes, it was clear that future proofing the School for growth was a key concern for many locals. As such, the provision of 1ha of land from within the school site has been provided to cater for the future expansion of the school.</p> <p>It is clear that this is a substantial public benefit which should attract <b>significant weight</b>.</p>
Environmental Benefits	
Benefit	Attributing Weight
Provision of high-quality new homes with a fabric-first approach to reduce energy consumption	The proposed homes use modern methods of construction and meet all requirements in terms of energy efficiency and sustainability. This is a considerable public benefit which attracts <b>limited / moderate weight</b> .
Provision of electric vehicle charge points	Many households have begun to make the switch to electrically powered vehicles and there is increasing demand for the provision of electric vehicle charging infrastructure. As such, as part of the proposals, the development will include the provision of electric vehicle charging infrastructure for each new home. This is a substantial benefits of the scheme which looks to encourage households to consider more sustainable forms of private transport. As such this benefit attracts <b>limited weight</b> .
Provision of improved pedestrian and cycle connections	The provision of suitable high quality links that enables active travel between Parsonage Road and Priors Green. The proposals have the ability to limit the need to travel short distances by car and are part of a well-planned, convenient, direct and logical route that ties in with existing rights of way and public amenities. This is a substantial public benefit which should be attributed <b>limited weight</b> .
Use of modern methods of construction	The Weston Group has developed as a significant player in the provision of offsite manufacturing for construction. MMC will be used for manufacturing some components of the scheme in the form of structurally insulated panels which allow highlight efficient building fabric to be delivered. This construction method is highly efficient and limits the weight produces and as such is a substantial environmental benefit of the scheme in comparison to more traditional methods. This attracts <b>limited weight</b> .
Absence of gas boilers and carbon reliant energy provision	Whilst I afford the SPD limited weight as it has not been subject to formal consultation; the Council's Interim Climate Change Policy (2021) has nonetheless been given due regard in the Scheme from an early stage and is fully addressed by a detailed Sustainability Statement and Energy Statement. This confirms the absence of gas boilers in favour of Air Source Heat Pumps. This is a benefit which should be attributed <b>limited weight</b> .
Biodiversity enhancements and Net Gain in excess of 10%	<p>The BNG assessment sets out that the proposals provide a significant gain in terms of ecology/biodiversity, which is in excess of 10%., whilst additional benefits for wildlife and habitat connectivity not measured by the BNG metric will also accrue.</p> <p>The scheme includes the provision of a considerable amount of new tree planting, wildflower areas, and other biodiversity enhancements such as bat and</p>


	bird boxes. This is a substantial environmental benefits of the scheme which should be attributed <b>significant weight</b> .
Reinstatement of historic native hedgerows	As part of the re-design process following the Appeal Decision, the proposals now include the reinstatement of historic hedgerows. This reinstates a part of the historic landscape which was previously removed. This is a benefit of the scheme which attract <b>moderate weight</b> .
Woodland Enhancement Plan	As part of the proposals, the Woodland Enhancement Plan looks to protect and enhance Prior's Wood and ensure that it can be enjoyed by locals as a natural green feature, but not at its detriment. This ensures that the Woodland remains a public amenity but does not become diminished. As such it is a benefit which attracts <b>significant weight</b> .
1ha extension of Prior's Woodland	The proposals include a 1ha expansion of Prior's Wood, reflecting where the woodland once extended to, as indicated by historic maps. This is a benefit both in terms of reinstating a historic part of the landscape and extending this green space which will be managed and publicly accessible. As such, this is a benefit which attracts <b>significant weight</b> .
Hatfield Forest Visitor management contribution	The Site walls within the Zone of Influence in regards to visitor impact on Hatfield Forest. Although the management of Prior's Wood seeks to provide an alternative site for recreation, a contribution is also proposed to be made to the management of visitors at Hatfield Forest. This is a benefit of the scheme which attracts <b>limited weight</b> .

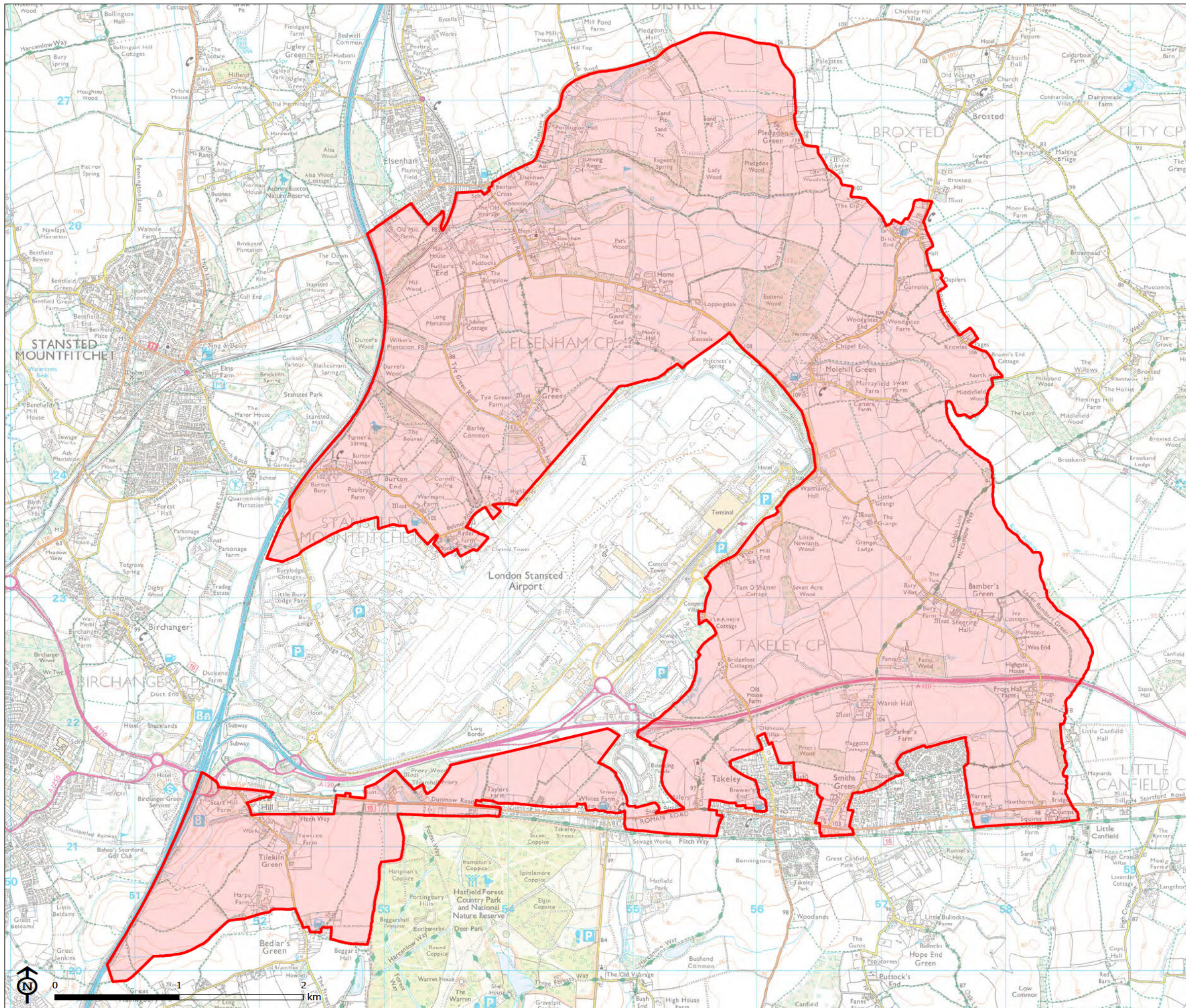
**Appendix K: Countryside Protection Zone Map**



# Uttlesford DC - Countryside Protection Zone Review

**Figure 2.1**  
**Countryside Protection Zone Extent**

 Countryside Protection Zone



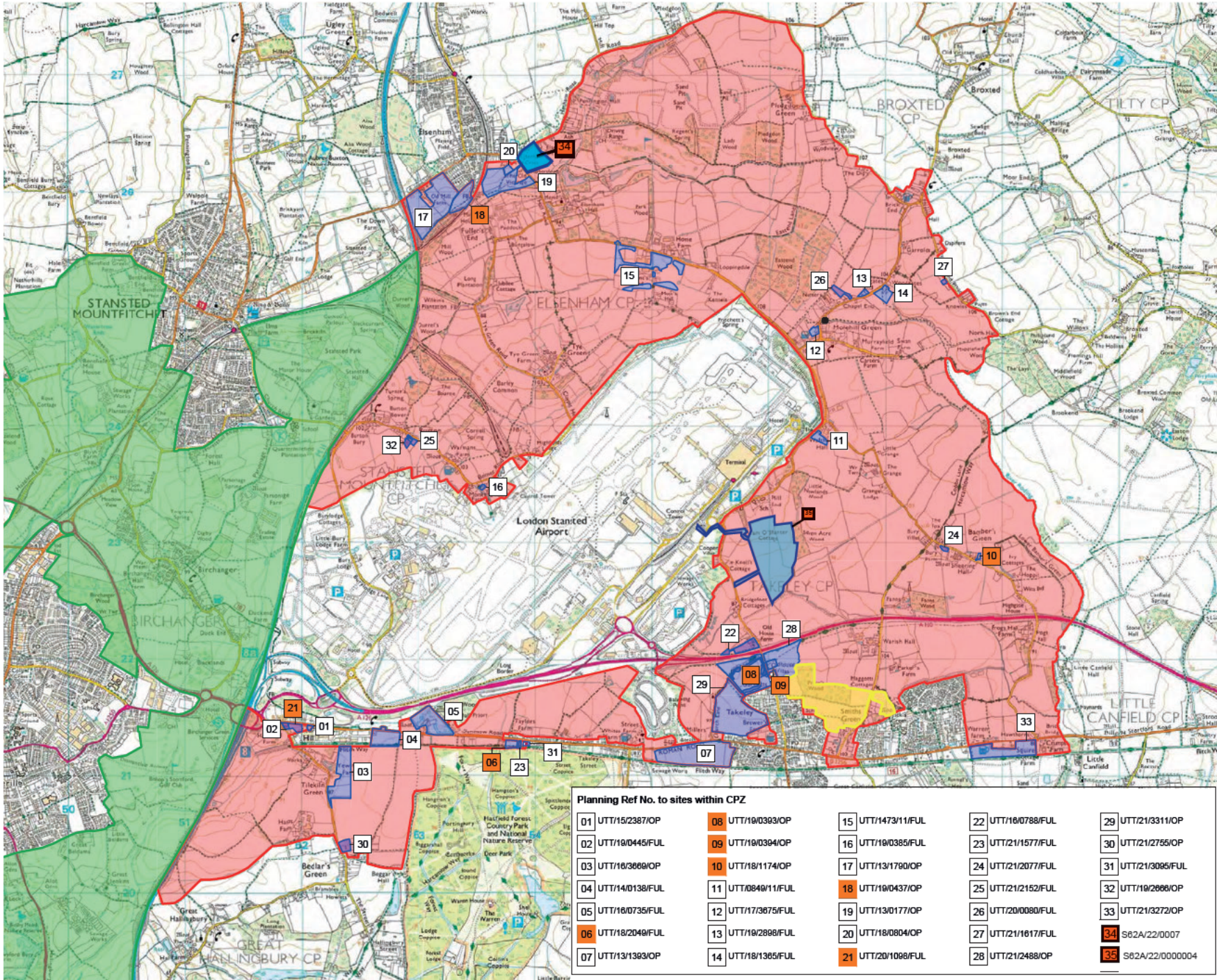
Map Scale @ A3: 1:30,000





**Appendix L: Countryside Protection Zone Map with recent Planning Approvals**





**Key:**

- COUNTRYSIDE PROTECTION ZONE (CPZ)
- SITES WITHIN CPZ
- GREEN BELT
- WESTON HOMES SITE AREA
- APPLICATION REF.UTT/20/1800/FUL

**Rev**

**B - WESTON HOMES SITE AREA ADDED AND SITES WITHIN CPZ ADDITIONS**

**C - ADDITIONAL PLANNING APPLICATIONS SUBMITTED WITHIN THE CPZ ADDED**

↑

0M      500M      1KM  
250M      750M

**PLANNING**

**Title**  
COUNTRYSIDE PROTECTION ZONE SITE PLAN

**Site**  
WARISH HALL, TAKELEY

<b>Date</b> JAN 2022	<b>Drawn</b> JEP	<b>Checked</b> PM
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**Scale**  
1:30000@A3

<b>Drawing No.</b> WH202_05_P_500	<b>Rev</b> D
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**General Notes**

This drawing is the property of Weston Homes Plc and is issued on the condition that it is not reproduced, disclosed or copied to any unauthorised person without written consent. Levels are in AOD unless otherwise stated. Dimensions are in millimeters unless otherwise stated. Weston Homes Plc must be informed of any drawing errors immediately in writing. This drawing is for planning purposes only.

● WESTON HOMES PLC

<b>Head Office</b> Weston Group Business Centre, Parsonage Road, Takeley, Essex. CM22 6PU. T: 01279 873333	<b>London Office</b> 13 Portman Square, London, W1H 6AZ T: 0203 096 7238
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**Planning Ref No. to sites within CPZ**

01 UTT/15/2387/OP	08 UTT/19/0393/OP	15 UTT/14/7311/FUL	22 UTT/16/0788/FUL	29 UTT/21/3311/OP
02 UTT/19/0445/FUL	09 UTT/19/0394/OP	16 UTT/19/0385/FUL	23 UTT/21/1577/FUL	30 UTT/21/2756/OP
03 UTT/16/3680/OP	10 UTT/18/1174/OP	17 UTT/13/1780/OP	24 UTT/21/2077/FUL	31 UTT/21/3086/FUL
04 UTT/14/0138/FUL	11 UTT/0849/11/FUL	18 UTT/19/0437/OP	25 UTT/21/2152/FUL	32 UTT/19/2686/OP
05 UTT/16/0735/FUL	12 UTT/17/3675/FUL	19 UTT/13/0177/OP	26 UTT/20/0080/FUL	33 UTT/21/3272/OP
06 UTT/18/2049/FUL	13 UTT/19/2898/FUL	20 UTT/18/0804/OP	27 UTT/21/1617/FUL	34 S82A/22/0007
07 UTT/13/1393/OP	14 UTT/18/1365/FUL	21 UTT/20/1088/FUL	28 UTT/21/2488/OP	35 S82A/22/0000004



**Appendix M: ECC Place Services Historic Buildings and Conservation Pre-application advice Feedback.**



FAO:  
Planning Department,  
Uttlesford District Council

Ref: Land at Warish Hall, Takeley  
Date: 01/12/2022

## HISTORIC BUILDINGS AND CONSERVATION ADVICE

Dear Sir / Madam,

### **RE: Warish Hall Farm, Takeley.**

Built Heritage Advice pertaining to the Planning Performance Agreement: Pre-Application Stage for the development of three sites known as 7 Acres, Jacks Field and Bulls Field.

This advice follows on from the recently Dismissed Appeal for the development of the site, Ref: APP/C1570/W/22/3291524. The comments raised by the Inspector from the previous scheme must be considered and where relevant supersede previous Built Heritage Advice.

The application site is that of three parcels of undeveloped land set within the wider agrarian landscape adjacent to Takeley and the development along Smiths Green Lane. Also known as and henceforth referred to as 7 Acres, Bull Field and Jacks Field (from west to east). It is proposed to separate the proposed development into three separate applications, to each parcel of land. With regards to the 7 Acres site, it is considered that the proposals would result in no harm to the significance of any heritage assets therefore no further detailed discussion is required from a built heritage perspective.

It is proposed to create 40 dwellings within Jacks Field and approximately 100 dwellings within Bull Field, this is a reduction from the previous scheme in response to comments raised by the Inspector. For ease, each site shall be separately discussed below in detail.

### **Bull Field**

Bull Field is existing agricultural land to the west of Smiths Green Lane and is bounded by Prior's Wood to the north, to the south it is bounded by residential properties and the Roseacres Primary School. Public rights of way cross the site. The site makes an important contribution to the semi-rural character of Takeley and the wider countryside setting with which it forms an integral and functional part. The proposed development of Bull Field has the potential to affect the setting of several designated and non-designated heritage assets, including:

- Warish Hall and Moat Bridge, Grade I listed (list entry number: 1169063),



- Warish Hall moated site and remains of Takeley Priory, Scheduled Monument (list entry number: 1007834),
- Goar Lodge, Grade II listed (list entry number: 1168972),
- Bull Cottages, non-designated heritage asset,
- Smiths and South Cottage, non-designated heritage asset,
- Beech Cottage, Grade II listed (list entry number: 1112212),
- The Cottage, Grade II listed (list entry number: 1306743),
- Moat Cottage, Grade II\* listed (list entry number: 112211),
- The Croft, Grade II listed (list entry number: 1168964),
- White House, Grade II listed (list entry number: 1322592),
- The Gages, Grade II listed (list entry number: 1168954),
- Pump at Pippins, Grade II listed (list entry number: 1112210),
- Cheerups Cottage, Grade II listed (list entry number: 1112207),
- The Limes, non-designated heritage asset,
- Hollow Elm Cottage, Grade II listed (list entry number: 1112220).

Smith's Green Lane is a protected lane and is identified as "UTTLANE166 Warish Hall Road" in the Uttlesford Protected Lanes Assessment.

The scheme from the recently Dismissed Appeal extended up to Smith's Green Lane, this proposal is for a much-reduced quantity of dwellings set further within Bull Field. This is to overcome the issues raised by the Inspector including the moderate to high level of less than substantial harm to the Scheduled Monument to the north and the moderate level of harm to the Protected Lane. I acknowledge that this scheme is an improvement from previous and I consider that the potential impacts to the Scheduled Monument and to the Protected Lane have been reduced through these revisions. The proposed development of the site is considered to fail to preserve the setting of several heritage assets, this being in line with previous comments from the Inspector.

For *Goar Lodge*, *Bull Cottages* and *Beech Cottage* the proposed development would be to the rear of these assets and visible from the assets, including in views when travelling south towards Smiths Green. The large open agrarian land positively contributes to their setting and significance, as stated within point 46 from the Appeal 'by introducing development into this area, the proposal would fail to preserve the settings of these buildings, thereby detracting from their significance'. The level of harm to these assets would result in a medium level of less than substantial harm (Paragraph 202). It is understood that green spaces are proposed as mitigation between the proposed development and the heritage assets however the proposals would result in a fundamental change in land use from the existing agrarian setting. Were the eastern portion of the site retained as agricultural land, the harm be lessened.

In the case of *The Cottage*, *Moat Cottage*, *The Croft*, *White House* and *The Gages*: these dwellings are located within the hamlet of Smiths Green. Their settings include the open aspect of Bull Field, across its agrarian landscape to Prior's Wood. The proposed development would allow views across the eastern portion of Bull Field to Priors Wood, however the proposed development would remain visually prominent from Smiths Green Lane and the approach into the hamlet. Furthermore, whilst it is positive that there is retained open green space to the east, the change in land use from agrarian land to a managed area would itself remove a positive aspect of the rural setting. I suggest that this eastern portion is removed from the red line boundary and retained as agricultural land in order to overcome this concern. With regards to the level of harm, this would be at the lowest end of the spectrum of less than substantial.

*Cheerups Cottage*: the application site makes a significant contribution to the significance of this designated heritage asset. As stated above, this scheme is of a reduced impact however the loss of the open agrarian field which shares both inter-visibility and co-visibility with the asset, would fail to preserve the setting of the listed building. The harm to this asset would be at the low end of the scale of less than substantial.

No harm is found to the *Pump at Pippins*, whilst the Inspector previously identified harm the reduced scheme put forward is considered to have overcome this issue.

For that of *Hollow Elm Cottage*, the proposed development of Bull Field is considered to result in a low level of less than substantial harm to the significance to this asset, through change in its setting. However, there remains the potential for the cumulative impact from the proposed development of Jacks Field to the east, this shall be discussed below.

### **Jacks Field**

Jacks Field is an area of agricultural land which makes a positive contribution to the setting and significance of Hollow Elm Cottage. Both Bull Field and Jacks Field are part of the setting to this asset and contribute to its rural character. The development of this site is considered to result in a low level of less than substantial harm to the significance of this asset. However, were the proposed development of Jacks to be dealt with under its own application, this would likely raise concerns upon the cumulative erosion of its setting (as noted in Historic England GPA Note 3 *The Setting of Heritage Assets*). The resulting level of less than substantial harm would be low/middle on the spectrum of less than substantial.

To conclude, I consider the proposals to be an improvement from the previous scheme however the proposed development is considered to 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, through change their setting. Going forwards, I recommend that the area to the east of Bull Field is removed from the proposed development boundary as the change in land use is fundamental to the contribution of the site to the setting of the heritage assets. I also suggest that the proposed development immediately to the rear of *Goar Lodge*, *Bull Cottages* and *Beech Cottage* is removed from the scheme.

In my opinion, only through a significant reduction with the proposed development boundary being located much further west within Bull Field would there be the potential for a no harm development, however this may not be viable.

Yours sincerely,

Thomas Muston BA (Hons) MSc  
Historic Environment Team  
Place Services

*Note: This letter is advisory and should only be considered as the opinion formed by specialist staff in relation to this particular matter*