



The Planning Inspectorate

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

### **ISSUES REPORT**

**Application Reference No:** S62A/2023/0019

**Designated Authority:** Uttlesford District Council (the Council)

**Applicant:** Weston Homes PLC

**Description of proposal:** 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.

**Site address:** Land to the north of Roseacres, between Parsonage Road and Smiths Green Lane, Takeley, Essex, CM22 6NZ (Land known as Bull Field, Warish Hall Farm, Takeley, Essex)

**Report by appointed person:** Grahame Kean BA (Hons) MIPROW, MRTPI, Solicitor

**Hearing to be held on:** 2 October 2023 at 10:00am

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#### **Introduction and general policy background**

1. The application site is vacant arable farmland, having a site area of some 19.8 hectares. The application is submitted as a full planning application, with no reserved matters for, in summary, 96 new homes including 39 affordable units; new formal and informal open space; improved Public Rights of Way (PRoW); and provision of 1ha of land for the future expansion of Roseacres Primary School.
2. Decisions on planning applications are made in accordance with the development plan unless material planning considerations indicate otherwise. The Development Plan comprises the Uttlesford Local Plan 2005 (LP), Essex Minerals Local Plan and Essex and Southend-on-Sea Waste Local Plan. The new local plan is still an emerging document.
3. The National Planning Policy Framework (NPPF) 2023 contains relevant national planning policies. It is an important material consideration. Its central aim is to achieve sustainable development: economic, social, and environmental. Planning Practice Guidance (PPG) supports the NPPF. There is an increased emphasis on good design as set out in the more recent iterations of the NPPF.
4. In considering whether to grant permission for development affecting a listed building or its setting special regard must be had to the desirability of preserving it or its setting or features of special architectural or historic interest.

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## **Procedural matters**

5. The application was made on 12 June 2023 under s62A Town and Country Planning Act 1990 (TCPA90) which allows for applications directly to the Planning Inspectorate where a local planning authority (LPA) has been so designated by the Secretary of State. A hearing is deemed appropriate in this case which is a major application. It will be conducted in accordance with Town and Country Planning (Section 62A Applications) (Hearings) Rules 2013.
6. An application for a screening opinion was made under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The Planning Inspectorate wrote to the Council on 3 August 2023, having considered the nature, scale and location of the proposal and nature of the receiving environment. Whilst there may be some impact on the surrounding area and nearby designated sensitive areas as a result of the development, it would not be of a scale and nature likely to result in significant adverse effects and an Environmental Impact Assessment was not required.
7. The application was validated on 2 August 2023. The notifications allowed for initial responses by 7 September 2023. Several interested parties and local residents submitted responses. Responses were received from the Council and:  
  
Active Travel England  
Affinity Water Limited  
Cadent Gas  
Environment Agency  
Essex County Council (ECC)  
Essex Police  
Gigaclear Ltd  
Hertfordshire and West Essex Integrated Care Board  
Historic England (HE)  
MAG London Stansted Airport  
National Air Traffic Services (NATS)  
National Highways  
National Trust (NT)  
Natural England (NE)  
Takeley Parish Council (TPC)  
Thames Water  
The Woodland Trust  
UK Power Networks
8. The appointed person intends to make unaccompanied inspections from public vantage points of the application site, including along public rights of way (PRoW) in the vicinity of the site.

## **The proposal**

9. The site is in the Parish of Takeley, south of Prior's Wood, on the west side of Smiths Green Lane and with vehicular access from Parsonage Road. The proposal is designed to form a sustainable extension to Takeley and would deliver 90 new residential dwellings, including affordable housing, public open space, including play space, a woodland extension and associated parking and infrastructure.

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10. Access to the site would be from Parsonage Road via the site known as 7 Acres, granted planning permission in April 2023 (Ref UTT/22/2744/FUL) for commercial units including provision for a medical centre with related parking and landscaping. The proposed access road would provide vehicular access for dwellings, servicing and visitor parking via a network of private drives and mews courts but terminate at the open space. Segregated cycle and footways would be provided.
  11. The proposal is similar to part of a previous scheme (Ref UTT/21/1987/FUL) refused by UDC and dismissed on appeal in August 2022. The current scheme seeks to address issues in the previous appeal decision including adverse impacts identified with regard to heritage assets in the area. Development previously envisaged in the east of the larger area has been removed and the proposed development is set back from the edge along Smiths Green Lane.

### **Consideration by the Council**

12. The Council considered the application at its Planning Committee meeting on 30 August 2023. Members agreed that had the application been submitted to the committee it would have been refused.
13. The report opined that the proposal accorded with LP Policy GEN2 in terms of layout, design, amenity space and separation distances. In addition, the housing mix was acceptable, and the proposal was considered acceptable in terms of highway safety, parking provision and appropriate mitigation.
14. However the report considered the proposal to be in conflict with LP policies S7 and S8, as harmful to the character and appearance of the area in terms of its adverse effect on landscape character and visual impact and would reduce the open character of the Countryside Protection Zone (CPZ).
15. It also noted that the Council was unable to demonstrate a 5 year housing land supply (5YHLS), the LP significantly predated the National Planning Policy Framework (NPPF) and some local policies did not fully comply with the NPPF. Therefore, paragraph 11d of the NPPF applied which states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless there are adverse impacts that 'significantly and demonstrably' outweigh the benefits of the proposal.
16. The report drew attention to NPPF, paragraph 11d) that the presumption in favour of sustainable development did not apply if the application of policies in the Framework that protect areas or assets of particular importance, which includes designated heritage assets, provided a clear reason for refusing the development proposed. It considered the harm caused to the significance of the heritage assets would be outweighed by the public benefits of the scheme.
17. There would be no increase in flood risk and the proposed drainage subject to conditions would appear to accord with LP Policy GEN3 Plan. The proposal was considered compliant with the Councils Interim Climate Change document. It was uncertain whether the proposal complied with LP Policy ENV2. Cumulative impact of the development proposals on local infrastructure could be mitigated by planning obligations and planning conditions.

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18. The overall finding in the officer's report was that taking account of the lack of a 5 year HLS, the benefits of the scheme outweighed the harm to the character and settings of the listed buildings and rural setting of the area, however, views of relevant statutory and non-statutory consultees needed to be considered, including whether the scheme is capable of being satisfactorily mitigated.

### **Main Issues**

19. The main issues appear to be:

- 1) Whether having regard to national and local planning policies, the proposed development is in a sustainable location;
- 2) The effect of the development on the character and appearance of the area, including the special attention that should be paid to the desirability of preserving the settings of nearby listed buildings;
- 3) The impacts of the proposed development on highway safety and the road network, including by reason of cumulative impacts of other developments;
- 4) Whether adequate provision would be secured for any additional need for facilities, including transport, education, community and health facilities, and open space arising from the development; and
- 5) Whether having regard to the supply of housing and applying the tilted balance set out in NPPF paragraph 11(d) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

### *Sustainability*

20. Policy S7 states *"in the countryside, which will be protected for its own sake, planning permission will only be given for development that needs to take place there, or is appropriate to a rural area"*. The policy would normally prevent development of this type in this location.
21. The Council officers' report stated that the location of the development would not be unreasonable considering its proximity to local services and facilities and whilst noting that the proposal would negatively impact the local infrastructure, demand for school spaces and local surgeries, considered it to be an accessible and sustainable location.
22. Relevant matters to consider include the need for flexibility in the settlement boundaries in light of the need to provide a sufficient supply of housing, and uncertainty as to the timing of adoption of the new local plan. Also relevant is whether the proposal meets the NPPF's policy aims as to the mutually dependent elements of sustainability, namely economic, social and environmental.

### *Character and appearance*

23. LP Policy S8 states that in the CPZ planning permission will only be granted for development that is required to be there or is appropriate to the rural area. New development will not be permitted if it would promote coalescence between the

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airport and existing development in the surrounding countryside, or adversely affect the open characteristics of the zone.

24. The application site is a pasture field with open and uninterrupted views of ancient woodland to the north (Priors Wood). The site adjoins development in Takeley and Priors Wood and the A120 creates a barrier between the proposed development and Stansted Airport. Matters to consider include whether there would be an adverse effect on the open characteristics of the CPZ contrary to Policy S8 resulting in harm to the character and appearance of the countryside around the airport. The potential for creating a significant urbanised environment at odds with the local character and landscape setting, including the ancient woodland should be considered. Also relevant is the extent of buffer protection proposed between development and the wood and the weight to be given to the recommendations of the Woodland Trust.
25. By s66(1) Planning (Listed Buildings and Conservation Areas) Act 1990 (P(LBCA)A90) the effect on the significance of heritage assets must be considered. LP Policy ENV2 also guards against inappropriate development affecting listed buildings. The proposal would potentially affect the significance of several designated and non-designated heritage assets, in particular Goar Lodge and Beech Cottage.
26. LP Policy GEN2 sets out the design criteria for new development and section 12 of NPPF aims to achieve well-designed places. The applicant engaged with the Council's design and heritage officers and the Essex Quality Review Panel. The feedback informed the design of the proposal together with the findings in the Inspector's report relating to the previous scheme, including seeking to address the adverse impacts identified with regard to the nearby heritage assets. The Council's conservation officer considers that the proposal would result in less than substantial harm to the significance of the heritage assets.
27. Relevant matters to consider include the adequacy of design measures embedded to minimise the impact of the development on the relevant heritage assets, and the extent to which if at all removing the development previously in the eastern part of the site has reduced the impact on the significance of the heritage assets. Also for consideration, having regard to paragraph 202 of NPPF, is the level of harm, if any that should be weighed against the public benefits of the proposal.

#### *Highway safety and road network*

28. LP Policy GEN1 permits development only if it meets the following criteria:

*"a) Access to the main road network must be capable of carrying the traffic generated by the development safely. b) The traffic generated by the development must be capable of being accommodated on the surrounding transport network. c) The design of the site must not compromise road safety and must take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired. d) It must be designed to meet the needs of people with disabilities if it is development to which the general public expect to have access. e) The development encourages movement by means other than driving a car."*

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29. The previous scheme was not refused on highway grounds. The current application site would be served by walking and cycling routes running from east to west, linking the site to the school, then to bus services on Parsonage Road and onto shops at Takeley, Four Ashes. The walking/cycle route also connects eastwards and there is a footpath south of the main access. A financial contribution would be made to towards nearby bus stop facilities and/or the enhancement of cycling infrastructure to include additional priority markings or extension to the Parsonage Road to Stansted Airport route.
30. Part of the assessed mitigation requirements at Four Ashes junction would provide additional capacity on the busiest arms by improving signals technology, similar to that required from the development at Land west of Parsonage Road, potentially secured through a s106 obligation.
31. The Council's officer report considered the access to the Bull Fields site acceptable on highway grounds. ECC provided its view on the acceptability of the proposal in highway terms and made a number of comments on the following matters:
- Highway safety and design
  - Pedestrian and cycle access, including Public Rights of Way
  - Trip generation/traffic surveys
  - Parking provision.
32. These matters and other parties' consultation responses on highways issues can be considered at the hearing. It is also relevant to consider the cumulative impact of the proposal on Parsonage Lane and the road network, taking into account the development previously permitted with access directly onto Parsonage Road.

*Whether the proposal satisfactorily addresses the impacts of the proposal*

33. LP Policy GEN6 requires that development "*makes provision at the appropriate time for community facilities, school capacity, public services, transport provision, drainage and other infrastructure that are made necessary by the proposed development. In localities where the cumulative impact of developments necessitates such provision, developers may be required to contribute to the costs of such provision by the relevant statutory authority.*"
34. Draft heads of terms of a s106 obligation have been prepared by the applicant. These provide for:
- 40% affordable housing split between social rented (70%) and intermediate (30%) (shared ownership/discount market sale), with 5% of the units wheelchair adaptable;
  - financial contributions towards Early Years, Primary and Secondary Education places, including a contribution towards Secondary School Transport;
  - approximately 1ha of land to accommodate expansion of Roseacres Primary School for 1FE to 2FE;
  - highways obligations and financial contributions to upgrade nearby bus stop facilities and/or cycling infrastructure;
  - health care contribution towards improvement of facilities in West Essex CCG, South Uttlesford Primary Care Network;

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- contribution towards visitor and botanical monitoring and mitigation works at Hatfield Forest, for the National Trust including management of Prior's Wood to meet Forestry Commission requirements;
  - open space on a phased basis and in full prior to final occupation, including play provision with an option to transfer long-term management to the Council or TPC; and
  - payment of the Council's and ECC's legal and monitoring costs.
35. Relevant matters to consider include the estimated benefits of providing land for the school extension given among other things the levels difference between the land and the existing school. Also for consideration is the mechanism for securing the mix of affordable housing. The relevance, necessity and adequacy of the obligations can be addressed at the Hearing.

*Housing supply and tilted balance*

36. The proposal would provide 96 dwellings, including 40% affordable housing. LP Policy H10 requires development of 3 or more dwellings to include a significant proportion of market housing comprising small properties including an element of small two and three bed homes, as a significant proportion of the total. The proposed mix of 1,2,3,4 and 5-bedroom properties and affordable housing at 40% would appear to comply with LP Policies H9 and H10 in this respect. The officers' report acknowledges that the council is unable to demonstrate a 5YHLS and in their view contributions towards housing land supply must be regarded as a positive effect. It also opined that provision of 40% affordable housing, given the demonstrable housing need for the district, should be given significant weight.
37. Relevant matters to consider include compliance with the Council's supplementary planning document (SPD) Accessible Homes and Playspaces, as to provision of single-storey dwellings, and the Essex Design Guide in relation to communal open space and size of proposed balconies. Also for consideration is the Local Residents Parking Standards 2013 as applied to on-plot parking provision for all dwellings.
38. In accordance with the NPPF if a local planning authority cannot demonstrate a 5-year supply of deliverable housing land, the development plan policies for the supply of housing are deemed out of date. Therefore according to the NPPF decisions on planning applications should be determined in accordance with the presumption in favour of sustainable development and permission granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.
39. The presumption in favour of sustainable development would not apply if the application of NPPF policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Thus footnote 7 states that this includes designated heritage assets and it is therefore relevant to consider whether any harm caused to the significance of the heritage assets would be outweighed by the public benefits of the scheme.
40. Furthermore it is relevant to consider include the extent of the shortfall in the 5YHLS and the importance to be attached to making a significant and early contribution to boosting the district's housing supply, including the delivery of affordable housing.

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### *Other matters*

41. Other relevant and potentially relevant LP policies include GEN2 (design), GEN3 (flood protection), GEN4 (good neighbourliness), GEN7 (nature conservation), GEN8 (vehicle parking standards), ENV3 (open spaces and trees), ENV4 (ancient monuments and sites of archaeological importance), ENV7 (protection of natural environment), ENV8 (other landscape elements of importance for nature conservation), ENV9 (historic landscapes), ENV10 (noise sensitive development and disturbance from aircraft), ENV12 (protection of water resources), and ENV12 (air quality).
42. Some archaeological evaluation took place on part of the application site which included a moated site and features identified in the geophysical survey. Further work in the remaining areas would appear possible to be secured by conditions so as to comply with LP Policy ENV4.
43. The ecological information submitted has been assessed by the Council's ecological consultant who recommends that a landscape ecology management plan (LEMP) should be secured by an appropriately worded planning condition to ensure the created habitats are implemented and managed appropriately. The ecology documents may need to be clarified as far as they relate to the application site, including the soft works masterplan in respect of the extension to Priors Wood.
44. The application is accompanied by a noise impact assessment. It finds that the required internal and external noise levels could be achieved by means of appropriately worded conditions to obviate noise related concerns.
45. The site is in Flood Zone 1, with the lowest risk of flooding (more than 1 in 1000 years). The submitted Flood Risk Assessment indicates the site could be developed without undue risk of flooding in compliance with LP Policy GEN3 and paragraphs 163-170 of the NPPF.

### **Conditions**

46. The Council has been requested to supply, on a without prejudice basis, suggested conditions if the application is to be permitted. Conditions on any eventual planning permission will be discussed at the Hearing. A discussion on the merits of conditions does not indicate that a decision has been made on the application, but only that all the conditions suggested are to be assessed as to whether they are necessary, relevant, enforceable, precise and reasonable.

*Grahame Kean*

INSPECTOR