

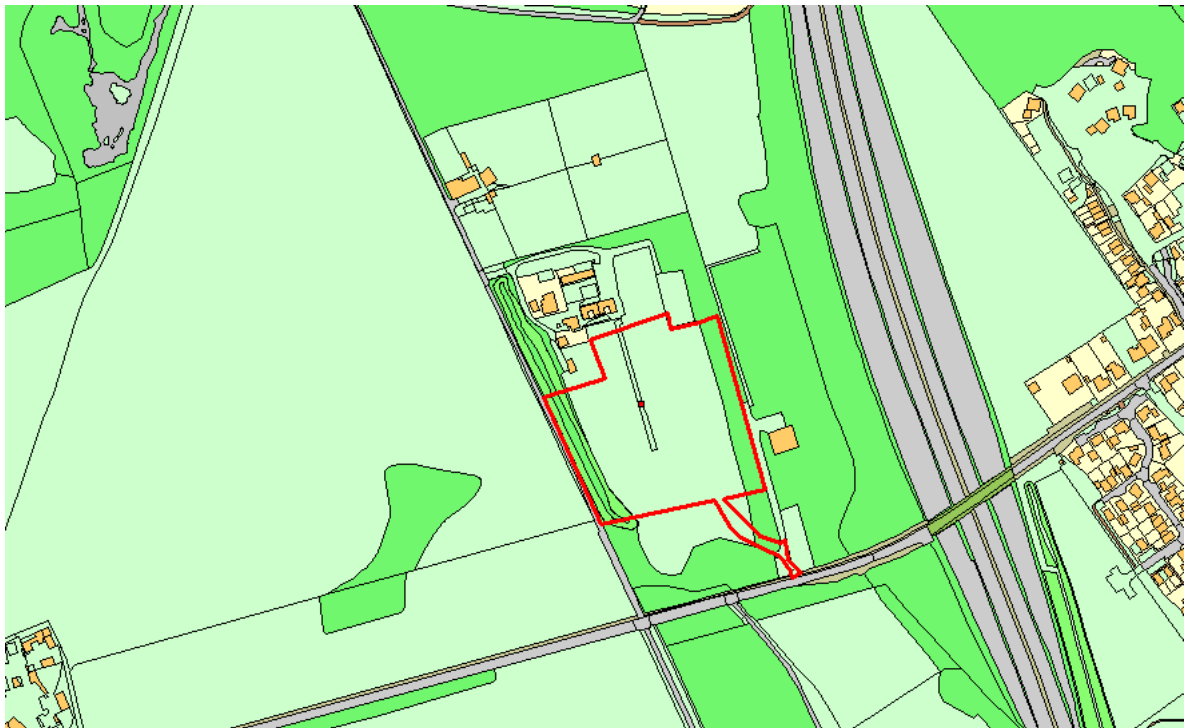
ITEM NUMBER: 6

PLANNING COMMITTEE DATE: 22 November 2023

REFERENCE NUMBER: S62A/2023/0023
UTT/23/2193/PINS

LOCATION: Land At Eastfield Stables May Walk
Elsenham Road
Stansted

SITE LOCATION PLAN:



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Organisation: Uttlesford District Council Date: 01 November 2023

PROPOSAL: Consultation on S62A/2023/0023 - Proposed erection 5 residential dwellings and associated infrastructure.

APPLICANT: Mr S Richardson (NB Investments UK Ltd)

AGENT: Mr V Ranger (Ranger Management & Design Services)

DATE CONSULTATION RESPONSE DUE: 24 November 2023

CASE OFFICER: Mr Avgerinos Vlachos

NOTATION: Outside Development Limits.
Road Classification (Elsenham Road/Stansted Road – B Road).
Within 2km of SSSI.
Oil Pipeline Hazardous Installation.
Within 6km of Stansted Airport.
Within 250m of Ancient Woodland (Alsa Wood).
Within 250m of Local Wildlife Site (Alsa Wood).
Public Right of Way (Bridleway).

REASON THIS CONSULTATION IS ON THE AGENDA: This is a report in relation to a major planning application submitted to the Planning Inspectorate (PINS) for determination.

Uttlesford District Council (UDC) has been designated by Government for poor performance in relation to the quality of decisions making on major applications.

This means that the Uttlesford District Council Planning Authority has the status of a consultee and is not the decision maker. There is limited time to comment. In total 21 days.

1. RECOMMENDATION

Request that the Planning Inspectorate REFUSE the application for the reasons set out in section 15 of this report.

2. SITE LOCATION AND DESCRIPTION

2.1 The application site comprises open, paddock land, located outside the development limits between Stansted and Elsenham to the west of the M11 motorway. The wider site of Eastfield Stables under the applicant's ownership is not used for agricultural purposes; to the northern part of the

wider site all previous agricultural buildings have been converted to residential dwellings and to the southern part a commercial use has been authorised for a 'wellness hub' (works for which have commenced). The converted dwellings include single storey properties with traditional materials and detailing of an equestrian/rural character. A public bridleway runs adjacent to the western boundary of the application site. The overall area contains a distinct rural landscape setting with limited dwellings and other properties of varying architectural styles, sizes, ages and materials.

3. PROPOSAL

3.1 Consultation on S62A/2023/0023 – Proposed erection of 5 no. residential dwellings and associated infrastructure.

3.2 Access to the site would be from Elsenham Road; the access has been previously approved.

3.3 The application includes the following documents:





- Application form
- Biodiversity checklist
- Design and access statement
- Supporting planning statement
- Utilities statement
- Design and access statement Appendix I NPPF compatibility assessment
- Design and access statement Appendix II 5YHLS Dec 2022
- Design and access statement Appendix II Part A 5YHLS Oct 2023
- Design and access statement Appendix III Call for sites 2021
- Design and access statement Appendix IV Ecological appraisal
- Design and access statement Appendix V Landscape and visual appraisal
- Design and access statement Appendix VI Transport statement
- Design and access statement Appendix VII appeal decision
- Design and access statement Appendix VIII appeal decision
- Design and access statement Appendix IX appeal decision
- Design and access statement Appendix X Part B map
- Design and access statement Appendix X Sheet 1 of 4 map
- Design and access statement Appendix X Sheet 2 of 4 map
- Design and access statement Appendix X Sheet 3 of 4 map
- Design and access statement Appendix X Sheet 4 of 4 map
- Design and access statement Appendix XI Part A appeal decision
- Design and access statement Appendix XII map
- Design and access statement Appendix XIII
- Design and access statement Appendix XIV Flood Risk Assessment
- Design and access statement Appendix XV Draft Heads of Terms







4. ENVIRONMENTAL IMPACT ASSESSMENT





4.1 The development does not constitute 'EIA development' for the purposes of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.






5. RELEVANT SITE HISTORY


5.1

References	Status	Plots	Proposal
UTT/20/1643/FUL	Appeal dismissed		Erection of 11 no. dwellings including alterations to existing access, formation of new internal road, landscaping and associated infrastructure.
UTT/18/2351/OP	Appeal dismissed		Outline application, with all matters reserved except for access, for residential development of 5 no. dwellings.
UTT/23/2239/FUL	Refused		Erection of 3 holiday let cottages.
UTT/23/2215/FUL	Approved with conditions		S73 application to vary condition 2 (approved plans) of UTT/21/2687/FUL (Improvement of existing vehicular access point and the construction of a single storey 'wellness hub' building and associated car, cycle and motorcycle parking area) allowed on appeal in order to

			amend the approved plans.
UTT/23/1105/FUL	Refused & Appeal lodged		Erection of the third agricultural building approved under planning application reference UTT/1282/93/FUL in a different location and completion of the internal access road.
UTT/23/1473/CLP	Refused		Erection of third building of 3 approved under reference UTT/1282/93/FUL.
UTT/23/1223/FUL	Refused		Construction of 3 no. holiday let cottages and associated infrastructure together with improvements to site access.
UTT/23/0178/FUL	Appeal in progress		Erection of a stable.
UTT/22/2746/FUL	Approved with conditions	 Plots 2, 2A, 7, 8	Erection of a single storey garage block for plots 2, 2A, 7 and 8.
UTT/22/1170/FUL	Appeal dismissed		Relocation of the third of 3 agricultural buildings approved for construction under

			reference UTT/1282/93/FUL and the completion of the internal road also approved under the same reference.
UTT/21/2687/FUL	Appeal allowed		Improvement of existing vehicular access point and the construction of a single storey 'wellness hub' building and associated car, cycle and motorcycle parking area.
UTT/21/1299/FUL	Appeal allowed	 Plots 7, 8	Erection of 2 no. semi-detached single storey dwellings and associated development.
UTT/20/3225/FUL	Approved with conditions	 Plot 1	Demolition of existing dwelling and erection of replacement dwelling.
UTT/20/0780/FUL	Approved with conditions	 Plots 2, 2A (amended scheme to UTT/18/0517/FUL below)	S73a Retrospective application for the change of use and convert the existing building into 2no. 1 bedroom live/work dwellings (revised scheme to approved UTT/18/0517/FUL).

UTT/19/2777/FUL	Appeal dismissed	 <p data-bbox="842 497 1031 533">South of plot 5</p>	Change of use of redundant animal shelter into a residential dwelling.
UTT/19/1728/FUL	Approved with conditions	 <p data-bbox="842 837 1031 869">West of plot 1</p>	Section 73A Retrospective application for continued use of the building as a dwelling.
UTT/19/1012/FUL	Appeal allowed	 <p data-bbox="896 1173 976 1211">Plot 5</p>	Change of use and conversion of existing barn into a single residential dwelling.
UTT/19/0312/FUL	Approved with conditions	 <p data-bbox="874 1516 992 1547">Plots 3, 4</p>	Change of use and conversion of an existing redundant livery stable block, into 2 no. dwellings.
UTT/18/0517/FUL	Approved with conditions	 <p data-bbox="817 1870 1056 1984">Plots 2, 2A (superseded by UTT/20/0780/FUL)</p>	Change of use and conversion existing building into a dwelling.

UTT/16/1278/FUL	Approved with conditions	(superseded by other permissions)	Retrospective application for the use of stables, ménage, barns and field shelter for commercial livery purposes.
UTT/1282/93/FUL	Approved with conditions	Plots 2, 2A, 7, 8 (found in UTT/23/1473/CLP to be inconsistent with other permission, physically impossible to implement)	Erection of three agricultural buildings (for rabbit breeding) and construction of access to highway.
UTT/1105/90	Approved with conditions		Formation of landscaped mound around field boundary.

6. PREAPPLICATION ADVICE AND/OR COMMUNITY CONSULTATION

6.1 Paragraph 39 of the NPPF states that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality preapplication discussion enables better coordination between public and private resources and improved outcomes for the community. The Localism Act 2011 also requires pre-application consultation on certain types of planning applications made in England.

6.2 No formal pre-application discussion has been held with officers of Uttlesford District Council prior to the submission of this application. the applicant did not undertake any community consultation with the public as the application form. A statement of community involvement has not been submitted.

7. STATUTORY CONSULTEES

7.1 All statutory consultees will write directly to PINS within the 21 days period being the 20 November 2023 and are thereby their responses are not appended in this report.

8. PARISH COUNCIL COMMENTS

8.1 These should be submitted by the Parish or Town Council directly to PINS within the 21-day consultation period being 20 November 2023 and are thereby not informed within this report. Elsenham Parish Council and Stansted Town Council have previously commented on applications on the wider site of Eastfield Stables.

9. CONSULTEE RESPONSES

9.1 All consultees' comments should be submitted directly to PINS within the 21-day consultation period being 20 November 2023 and are thereby not informed within this report.

10. REPRESENTATIONS

10.1 The application was publicised by sending letters to adjoining and adjacent occupiers and by displaying a site notice. Anyone wishing to make a representation (whether supporting or objecting) are required to submit their comments directly to PINS within the 21-day consultation period ending 20 November 2023. All representations should be submitted directly to PINS within the 21-day consultation period.

10.2 UDC has no role in co-ordinating or receiving any representations made about this application. It will be for PINS to decide whether to accept any representations that are made later than 21 days.

11. MATERIAL CONSIDERATIONS

11.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, The Development Plan and all other material considerations identified in the "Considerations and Assessments" section of the report. The determination must be made in accordance with the plan unless material considerations indicate otherwise.

11.2 Section 70(2) of the Town and Country Planning Act requires the local planning authority in dealing with a planning application, to have regard to

- a) The provisions of the development plan, so far as material to the application:
 - (aza) a post-examination draft neighbourhood development plan, so far as material to the application,
- b) any local finance considerations, so far as material to the application, and
- c) any other material considerations.

11.3 The Development Plan

11.3.1 Essex Minerals Local Plan (adopted July 2014)
Essex and Southend-on-Sea Waste Local Plan (adopted July 2017)

Uttlesford District Local Plan (adopted 2005)
 Felsted Neighbourhood Plan (made February 2020)
 Great Dunmow Neighbourhood Plan (made December 2016)
 Newport, Quendon and Rickling Neighbourhood Plan (made June 2021)
 Thaxted Neighbourhood Plan (made February 2019)
 Stebbing Neighbourhood Plan (made July 2022)
 Saffron Walden Neighbourhood Plan (made October 2022)
 Ashdon Neighbourhood Plan (made December 2022)
 Great & Little Chesterford Neighbourhood Plan (made February 2023).

12. POLICY

12.1 National Policies

12.1.1 National Planning Policy Framework (2023)

12.2 Uttlesford District Plan (2005)

12.2.1	S7	The Countryside
	GEN1	Access
	GEN2	Design
	GEN3	Flood Protection
	GEN4	Good Neighbourliness
	GEN5	Light Pollution
	GEN6	Infrastructure Provision
	GEN7	Nature Conservation
	GEN8	Vehicle Parking Standards
	H9	Affordable Housing
	H10	Housing Mix
	ENV3	Open Space and Trees
	ENV4	Ancient Monuments and Sites of Archaeological Importance
	ENV5	Protection of Agricultural Land
	ENV8	Other Landscape Elements of Importance for Nature Conservation
	ENV10	Noise Sensitive Development
	ENV11	Noise Generators
	ENV12	Protection of Water Resources
	ENV13	Exposure to Poor Air Quality
	ENV14	Contaminated land

12.3 Neighbourhood Plan

12.3.1 There is no 'made' Neighbourhood Plan for the area.

12.4 Supplementary Planning Document or Guidance

12.4.1 Uttlesford Local Residential Parking Standards (2013)
 Essex County Council Parking Standards (2009)
 Supplementary Planning Document – Accessible homes and playspace

Supplementary Planning Document – Developer’s contributions
Essex Design Guide
Uttlesford Interim Climate Change Policy (2021)
Essex County Council Developers’ Guide to Infrastructure Contributions
(2020)

13. CONSIDERATIONS AND ASSESSMENT

13.1 The issues to consider in the determination of this application are:

- 13.2**
- A) Principle of development / Character and appearance**
 - B) Climate change**
 - C) Residential amenity**
 - D) Access and parking**
 - E) Ecology**
 - F) Contamination**
 - G) Archaeology**
 - H) Flood risk and drainage**
 - I) Housing mix and affordable housing**
 - J) Planning obligations**
 - K) Planning balance**
 - L) Other matters**

13.3 A) Principle of development / Character and appearance

13.3.1 Housing land supply:

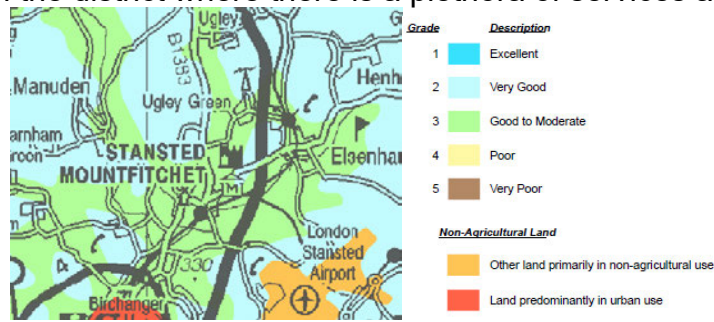
The development site is located outside development limits, within the countryside. The local planning authority (LPA) published in October 2023 a 5-Year Housing Land Supply (5YHLS) figure of **5.14 years**¹; this figure includes the necessary 5% buffer. That said the LPA’s Development Plan cannot be viewed as being fully up to date, and as such, paragraph 11(d) of the National Planning Policy Framework (NPPF, 2023) is still engaged, 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, granting permission unless (i) the application of Framework policies that protect areas or assets of particular importance provides a clear reason for refusal or (ii) any adverse impacts would significantly and demonstrably outweigh the benefits.

13.3.2 Applying policy ENV5:

The site comprises Grade 2 (‘Very Good’ quality) agricultural land, being part of the district’s best and most versatile agricultural land (BMV). The loss of BMV land conflicts with policy ENV5 of the Local Plan. Notwithstanding that policy ENV5 is consistent with paragraph 174(b) of the NPPF, this conflict is afforded limited weight as there is plenty of BMV land in the locality. However, policy ENV5 is indicative of the Local Plan’s

¹ Previously at 4.89 years in Apr 2022 (from 3.52 years, Apr 2021, and 3.11 years in Jan 2021 and 2.68 years before that).

spatial strategy that seeks to direct development to more sustainable locations in the district where there is a plethora of services and facilities.



13.3.3 Applying Policies S7, GEN2 and GEN1(e) in conjunction with paragraph 8 of the NPPF (economic, social, environmental):

Economic benefits:

The proposal provides a small contribution towards the wider local economy during construction via potential employment for local builders and suppliers of materials.

13.3.4 Location – Isolation, Infill:

Recent case law² defined ‘isolation’ as the spatial/physical separation from a settlement or hamlet, meaning that a site within or adjacent to a housing group is not isolated. The site is not isolated, as it is adjacent to the housing estate of Eastfield Stables that comprises a number of converted dwellings. Paragraph 80 of the NPPF is not applicable.

13.3.5 Paragraph 6.14 of the Local Plan allows “*sensitive infilling of small gaps in small groups of houses outside development limits but close to settlements*” if the development is in character with the surroundings and have limited impacts on the countryside. By reason of the site’s size and position in relation to the neighbouring dwellings, the site is not an infill opportunity, as it is not a small gap but rather a defining open and verdant space at the centre of the wider site that positively contributes to the rural character of the area. Also, notwithstanding the commencement of the works for the ‘wellness hub’³ to the south of the site, this has not been substantially completed or actively used; in any case, infilling refers to the road frontage, not backland development.

13.3.6 Location – Services and facilities:

Stansted and Elsenham offer a wide range of services and facilities, including, but not limited to, schools and supermarkets; however, the housing group in Eastfield Stables does not offer any services and facilities. The nearest serviced bus stop⁴ (Leigh Drive stop – 9’ walk) is

² Braintree DC v SSCLG [2018] EWCA Civ. 610.

³ APP/C1570/W/22/3291446 (UTT/21/2687/FUL) – Allowed on appeal 20 February 2023.

⁴ Bus services include routes 7/7A (service only a few times a day) and 441 (school bus service only twice a day). The application suggests that the nearest bus stop is 200m from the site (Transport Statement, paragraph 2.20). However, this probably refers to the Old Mill Farm stop that is not referenced in the bus schedule of the above routes and is 300m from the site.

700m from the site. The nearest school (Elsenham Primary School – 17' walk) is 1.2km away and the nearest supermarket (Tesco Express – 13' walk) is 900m from the site. Notwithstanding the above, there are no pedestrian footpaths, lit, continuous and maintained, that link the application site to the bus stop and the above services and facilities⁵.

13.3.7 The occupants of the proposed dwellings would not be able to safely access sustainable public transport of a satisfactory frequency, as well as services and facilities within walking distances. It would be unreasonable to expect that the future occupants will be walking back with their groceries from the supermarket through the existing footways that are unlit and in poor condition without enough space to accommodate wheelchairs. Movements to and from the site would not be undertaken by means other than the private car. Opportunities to promote sustainable transport modes have not been taken up and alternative transport options are not promoted by the development. Therefore, the sustainability credentials of the location are not satisfactory in NPPF terms, and the development would fail to comply with paragraphs 104(c), 110(a) of the NPPF, and policy GEN1(e) of the Local Plan.

13.3.8 Character and appearance (countryside, landscape, pattern):
The local character contains a distinct rural feel and countryside setting with some views to the wider landscape and an intrinsic sense of openness (see photographs). The proposal would introduce built form in the countryside with urbanising effects⁶. Therefore, the development would be contrary to policy S7 of the Local Plan and paragraph 174(b) of the NPPF. Notwithstanding the applicant's comments⁷, the element of policy S7 that seeks to protect or enhance the countryside character within which the development is set is fully consistent with paragraph 174 of the NPPF which states that planning decisions should contribute to and enhance the natural and local environment by (b) recognising the intrinsic character and beauty of the countryside. Applying paragraph 219 of the NPPF to the above, policy S7 should be afforded significant weight.



13.3.9 The Landscape and Visual Appraisal (LVA) submitted with the application reported that the site has medium-to-low landscape and visual value as it

⁵ The application concurs that “*The footway surfaces are in need of repair in certain locations and the level of street lighting and coverage is moderate to poor along the site frontage*” (Transport Statement, paragraph 2.15).

⁶ Domestic appearance of built form and domestic paraphernalia with which housing is associated, such as household equipment, vehicles, parking spaces and hardstandings, patios, fences, garden equipment, etc..

⁷ Design and Access Statement, pp. 5, 12-13.

contains features which positively contribute to its character and the surrounding landscape of the Broxted Farmland Plateau and as it offers some views into the site from the public bridleway⁸. The LVA concluded that the proposal “*will have a very limited effect on the landscape of the Broxted Farmland Plateau Landscape Character Area and the visual amenity of local residents and users of local Public Rights of Way*”⁹, including minor beneficial effects to the wider landscape plateau, minor adverse effects to pedestrians on Elsenham Road in the short term and neutral in the long term, as well as minor adverse effects to the occupiers of the converted dwellings in Eastfield Stables¹⁰.

13.3.10 When quantified, **countryside harm** is significant. The site, by reason of its open and verdant nature and visually culminating position¹¹, positively contributes to the rural character and appearance of the area¹². As the construction of the ‘wellness hub’ has commenced, the development would visually and spatially merge the built form within the wider site as it will stop playing the role of a visually defensible boundary between the residential conversions to the north and the ‘wellness hub’ to the south. Contrary to the LVA findings, the extension of urban qualities within this rural landscape would significantly harm the visual amenity of sensitive receptors (residents in Eastfield Stables, bridleway and footway users) due to the loss of area’s tranquillity through the increased noise, lighting, movements and other environmental factors caused by the intensified residential use.

13.3.11 Two appeal decisions that relate to the site are key considerations for the proposal. The **first appeal**¹³ site overlaps with the current application site (see images) and extends further to the north and south. The Inspector found the location inappropriate as the appeal site’s distance and separation from Stansted and Elsenham would not promote sustainable housing development in rural areas where it would enhance or maintain the vitality of rural communities and particularly where it would support local services in a village or a group of settlements, contrary to paragraph 79 of the NPPF¹⁴. In addition, “*the M11 acts as a physical and visual*

⁸ Design and Access Statement, Appendix V (Landscape and Visual Appraisal), paragraphs 5.6.1 and 6.3.1.

⁹ Design and Access Statement, Appendix V (Landscape and Visual Appraisal), paragraph 10.0.1.

¹⁰ Design and Access Statement, Appendix V (Landscape and Visual Appraisal), paragraph 10.0.5-10.0.7.

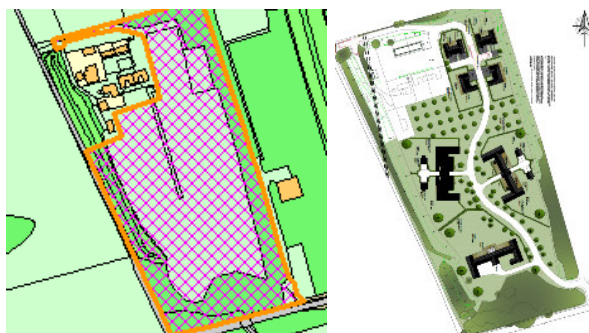
¹¹ As a significant gap between Eastfield Stables to the north and the ‘wellness hub’ to the south of the wider site.

¹² In a very recent appeal decision (APP/C1570/W/23/3321481 – UTT/23/0178/FUL) for the erection of a stable block on an appeal site that is part of the current application site, the Inspector accepted that “*As a grassed and undeveloped plot, the site makes a positive contribution to the surrounding area as open countryside*” (paragraph 8) – Appeal dismissed on 08 November 2023.

¹³ APP/C1570/W/21/3271985 (UTT/20/1643/FUL) for improvements to existing site access, formation of new internal road, tree planting and landscaping, construction of 11 dwellings and associated infrastructure – Appeal dismissed 30 October 2021.

¹⁴ APP/C1570/W/21/3271985 (UTT/20/1643/FUL), paragraph 8.

boundary separating the main built-up area of Elsenham from the appeal site and with intervening countryside between the motorway and the site it does not relate well to the built form of the settlement, its character and function”¹⁵.



13.3.12 For the issue of character and appearance, the same Inspector confirmed that *“The impact of development on the rural character of an area is not simply restricted to whether it can be seen or not or its detailed design but about how that use would impact on the rural setting”*, and as such, the appeal site plays a part in the flow of open countryside separating Elsenham from Stansted and preventing their coalescence¹⁶. The issue of visibility from the public realm was also confirmed in other appeal decisions in the wider site¹⁷ and a very recent appeal within the current application site, where the Inspector confirmed that *“just because the site is screened does not mean that it makes no contribution to the character of the surrounding countryside or would be suitable for new development”*¹⁸. Similarly to the current application, the scale and design of the first appeal scheme included equestrian style, single storey dwellings (see elevations) that were found inadequate to retain the openness of the site¹⁹ to the detriment of its rural character.



¹⁵ APP/C1570/W/21/3271985 (UTT/20/1643/FUL), paragraph 8.

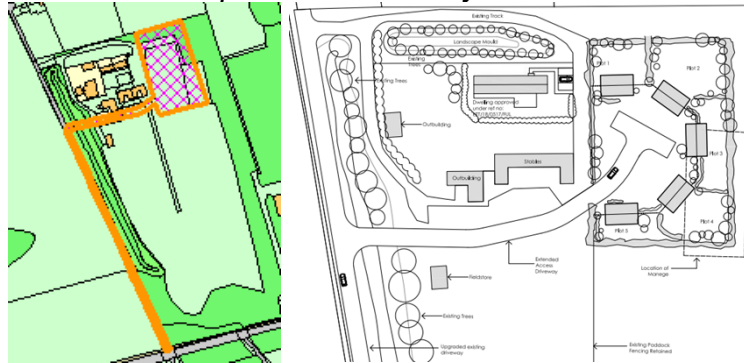
¹⁶ APP/C1570/W/21/3271985 (UTT/20/1643/FUL), paragraph 10.

¹⁷ In an appeal scheme for agricultural buildings to the north of the current application site (APP/C1570/W/22/3303304 – UTT/22/1170/FUL), the Inspector highlighted that *“just because new development in the countryside would be well hidden from public gaze does not make it acceptable. Although appropriately designed, the proposal would nonetheless detract from the rural character of the area by intruding into undeveloped and open land”* (paragraph 10). The distinction between character and appearance is also relevant on the application.

¹⁸ APP/C1570/W/23/3321481 (UTT/23/0178/FUL), paragraph 11, for the erection of a stable block – Appeal dismissed on 08 November 2023.

¹⁹ APP/C1570/W/21/3271985 (UTT/20/1643/FUL), paragraph 12.

13.3.13 The **second appeal**²⁰ site was north of the current application site (slightly overlapping its upper part, see image) and contained a menage and grassed areas. Discussing the character and appearance issue, the Inspector reaffirmed the role of the M11 as a physical and visual boundary, separating the appeal site from Elsenham and concluded that the appeal scheme “*would erode the openness and harmfully alter the intrinsic character of this part of the countryside*”²¹.



13.3.14 Both Inspectors noted that the residential use in Eastfield Stables was the result of conversions of agricultural buildings, not new houses²², which is a key difference to current application. The above, combined with the 5YHLS shortfall at the time of the appeal decisions in contrast to the 5.14 years of housing supply reported in October 2023, as well as with the fact that 11 no. units were seen as a modest contribution to the housing shortfall, demonstrate that the harm caused by the proposal to the rural character of the area would not be outweighed by public benefits (see planning balance in Section K).

13.3.15 The proposed dwellings would have identical design and scale that creates a visually monotonous environment without character and identity. Large roofs would visually dominate the units with a poor combination of forms that would lack hierarchy, failing to reflect the Essex Design Guide²³ advice of a principal element to which subsidiary elements are added. This is because the living/dining/kitchen wing would be 16.1m long, whereas the bedroom wing would be 18.7m long (see roof plan). The footprint of the bungalows would be too large for their bedroom numbers and their scale would not be compatible with the scale of the surrounding buildings that are smaller semi-detached or detached properties. The Landscape Masterplan (see below) shows that the main driveway within the site would be tree lined.

²⁰ APP/C1570/W/19/3228484 (UTT/18/2351/OP) for residential development within a section of brownfield land (outline application for 5 no. dwellings) – Appeal dismissed 05 September 2019.

²¹ APP/C1570/W/19/3228484 (UTT/18/2351/OP), paragraph 7.

²² APP/C1570/W/21/3271985 (UTT/20/1643/FUL), paragraph 9; APP/C1570/W/19/3228484 (UTT/18/2351/OP), paragraph 9.

²³ Essex Design Guide, Section ‘Building Form’ -



- 13.3.16** Therefore, the proposed layout, the unified appearance and the large footprint of the bungalows would create a suburban layout and appearance for the development that would further harm the rural character of the area, in conflict with paragraph 130 of the NPPF, and policy GEN2 of the Local Plan.
- 13.3.17** The proposed materials reflect the agricultural past of the site but are not enough to remove the suburban aesthetic of the scheme. The existing landscaped buffers on the edges of the site and the proposed landscaping measures are also inadequate to materially diminish the above harm, plus they can vary due to health and season, and as such, they cannot be relied upon continuously.
- 13.3.18** The low density of the development (see below) would not reduce its significant harm to the countryside character of the area, as the latter is attributed primarily to the urbanisation effects of the proposal, the significant built form and suburban character and the loss of the paddock land on the entirety of the site for the benefit of residential gardens.
- 13.3.19** Effective/efficient use of land:
Paragraph 119 of the NPPF states that planning decisions should promote an effective use of land in meeting the need for homes, while safeguarding and improving the environment. Paragraph 125 of the NPPF states that where there is an existing shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site. In these circumstances: (c) LPAs should refuse applications which they consider fail to make efficient use of land, taking into account the policies in the NPPF.
- 13.3.20** The application site covers an area of 1.98 hectares, and as such, the development of 5 no. units would result in a proposed density of 2.5 units per hectare for the site, which is well below the average densities in the area. This density represents an entirely **inefficient use of the land** as a resource, which would obstruct the continuous achievement of an appropriate supply of housing in the district and compromise the ability of future generations to meet their housing needs. This matter on its own is sufficient to outweigh the benefit that would result from the provision of

just 5 no. dwellings. The proposal would conflict with paragraphs 119 and 125(c) of the NPPF, and policy H4(a) of the Local Plan.

13.3.21 The application supports that the low density will provide a high-quality environment for the residents²⁴. However, as explained above, the proposal would be harmful to the local character and it would be unreasonable to consider that a private gain for future occupants would be a public benefit of the scheme.

13.3.22 Previously developed land:

The first appeal decision²⁵ also established that the current application site is greenfield paddocks and **not** previously developed land²⁶. The case officer's site visits and planning history show that the former agricultural use has ceased. The permission under UTT/16/1278/FUL which allowed the use of stables, menage, barns and field shelter for commercial livery purposes has been effectively superseded²⁷ by permissions to convert all agricultural buildings on the estate into residential dwellings²⁸.

13.3.23 Other material considerations:

It is well-established that previous decisions can be material considerations because like cases should be decided in a like manner, to ensure consistency in decision-making. However, notwithstanding the comments from third parties, previous Secretary of State or LPA decisions do not set a precedent for the assessment of similar developments; the benefits and harm, and the levels of each, will depend on the specific characteristics of a site and scheme. On this occasion, the following decisions are noted in addition to the ones referenced above:

- **UTT/19/2470/OP** (Land off Isabel Drive and Land off Stansted Road, Elsenham):
This appeal was for 99 no. dwellings (including affordables) with the site being adjacent to the development envelope in Elsenham on the east side of the M11.
- **UTT/19/1012/FUL** (Eastfield Stables):
This appeal was for a conversion of an agricultural building. The position for policy S7 has been explained in paragraph 13.3.8 of this report.

²⁴ Design and Access Statement, p.9.

²⁵ APP/C1570/W/21/3271985 (UTT/20/1643/FUL), paragraphs 11, 20.

²⁶ In the context of the NPPF glossary and a Court of Appeal decision: Dartford Borough Council v Secretary of State for Communities and Local Government & Anor [2017] EWCA Civ 141.

²⁷ An appeal decision for agricultural buildings in Eastfield Stables confirmed that "*there is no evidence that the livery business is still operating*" (APP/C1570/W/22/3303304 – UTT/22/1170/FUL, paragraph 3).

²⁸ Including UTT/18/0517/FUL (revised by UTT/20/0780/FUL) for plots 2 and 2A, UTT/19/0312/FUL for plots 3 and 4, UTT/19/1012/FUL for plot 5, and UTT/19/1728/FUL for a stable conversion to the west of plot 1 (superseded by UTT/20/3225/FUL for a replacement dwelling in plot 1). Even the 2nd agricultural building from UTT/1282/93/FUL was converted into 2 no. residential units (plots 7 and 8).

- **UTT/22/1694/PIP** (Land to the west of The Cottage, Snakes Lane, Ugley Green):
This appeal scheme was not located between Stansted and Elsenham and was found to have limited impact on the countryside character of the area, unlike the application site for which two appeal decisions have considered otherwise.

13.3.24 Other details:

The Crime Prevention officer raised **no objections** but noted concerns with the layout, requiring the details of the proposed lighting, boundary treatments and physical security measures. However, a Lighting Strategy has been submitted with the application, proposing only external lighting features affixed to the proposed dwellings. In any case, if the scheme were acceptable, this matter could be conditioned.

- 13.3.25** The Conservation officer raised **no objections** on heritage impacts grounds as the only heritage asset²⁹ in the area is sufficiently away from the application site; the proposal will not lead to 'less than substantial harm' to this heritage asset. However, Conservation raised concerns around the proposed materials (including UPVC) and requested more details around the proposed solar panels, as mentioned in the Typical Dwelling Details drawing. These matters could be conditioned if the scheme were acceptable. Conservation concluded that *"a typical design that is repeated around the site is not appropriate. To be considered acceptable the proposals require a bespoke, well detailed design in response to setting and plot orientation, including a materials palette that is reflective of the local character"*.

13.3.26 Conclusion:

The principle of the development is **not** acceptable (see planning balance in Section K). Other material planning considerations and technical issues (e.g. flood risk) should be examined once the Planning Inspectorate receives the relevant consultation responses.

13.4 **B) Climate change**

- 13.4.1** The LPA adopted a Climate Crisis Strategy 2021-30 and an Interim Climate Change Planning Policy, which prioritises energy performance. If the scheme were acceptable, the development would need to bring forward water and energy efficiency measures and construction techniques to ensure compliance with the above policies, as well as section 14 of the NPPF. The application recognises this obligation³⁰ and also proposes air source heat pumps³¹. For example, water efficiency would need to comply with the 110 litres per person per day per unit set out in policy 3 of the Interim Climate Change Planning Policy, and policy GEN2(e) of the Local Plan. Although these green technologies may be

²⁹ Down Farmhouse (Grade II listed).

³⁰ Design and Access Statement, p.10.

³¹ Utilities Statement, paragraph 3.

benefits for the scheme, they would not be adequate to eliminate or mitigate the countryside harm identified above.

13.5 C) Residential amenity

13.5.1 In terms of the residential amenity of the occupants, the proposed units would be single storey with the same occupancies of 4B8P³² (including the office/workspace that covers 23.4 sqm) and gross internal areas (GIA). The minimum threshold set out in the Nationally Described Space Standard (NDSS) would be 117 sqm; however, the proposed GIA for each unit would be 236 sqm. Therefore, each proposed dwelling would exceed the NDSS by 119 sqm, which is above the minimum threshold for the creation of a 4-bed bungalow. This is further evidence of the unacceptably large scale of the proposed dwellings and the inefficient use of the land, as elaborated above.

13.5.2 In terms of amenity (garden) space, all the proposed plots have garden areas that exceed 1,000 sqm, which is well above the 100 sqm threshold for each plot set out by the Essex Design Guide. This again is further evidence of the inefficient use of the land.

13.5.3 In terms of noise, odours, vibrations, dust, light pollution and other disturbances, the Environmental Health officer raised **no objections** subject to conditions to safeguard residential amenities, including noise assessment and mitigation measures given the site's proximity to the M11.

13.5.4 After applying the design and remoteness tests (see Essex Design Guide) and the 45-degree tests, the proposal would safeguard the residential amenity of the existing and prospective occupiers in terms of potential material overshadowing, overlooking and overbearing effects.

13.5.5 Overall, the proposal would not materially harm residential amenities of existing and future occupants and would comply with Policies GEN2 and H4(b)-(d) of the Local Plan, the Essex Design Guide, and the NPPF (insofar as they relate to this section).

13.6 D) Access and parking

13.6.1 Policy GEN1 of the Local Plan states that development will only be permitted if it meets all of the following criteria:

- a) Access to the main road network must be capable of carrying the traffic generated by the development safely.
- b) The traffic generated by the development must be capable of being accommodated on the surrounding transport network.
- c) The design of the site must not compromise road safety and must take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired.

³² 4B8P = 4 Bedrooms 8 Persons.

- 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.

13.6.2 The application proposes access from Elsenham Road and visibility splays informed by a speed survey that calculated the 85th percentile speeds. This approach has been acceptable in the past for other application on the wider site of Eastfield Stables; however, confirmation from the Highway Authority would be required to ensure the proposed development would not compromise highway safety, in accordance with the Essex County Council Supplementary Guidance – Development Management Policies (Feb 2011), policy GEN1 of the Local Plan, and paragraphs 111 and 110(b) of the NPPF.

13.6.3 Due to the nature of the Section 62A application process, comments from this consultee have not been received at the time of this report but will be reported to the Planning Inspectorate within the response period, and as such, the LPA are unable to further comment at this stage.

13.6.4 The required parking spaces as per the Uttlesford Residential Parking Standards (2013) and the Essex County Council Parking Standards (2009) would be 3 no. parking spaces of appropriate dimensions. The plots include ample space for parking and appropriate garages to accommodate this level of parking provision.

13.7 E) Ecology

13.7.1 The impact of the proposed development on protected and priority species and habitats within or in the vicinity of the application site should be examined by the Ecology officer to avoid harm to the above and to secure biodiversity mitigation and enhancement measures, in accordance with paragraphs 43, 174(d) and 180 of the NPPF, and Policies GEN7 and ENV8 of the Local Plan.

13.7.2 Due to the nature of the Section 62A application process, comments from this consultee have not been received at the time of this report but will be reported to the Planning Inspectorate within the response period, and as such, the LPA are unable to further comment at this stage.

13.8 F) Contamination

13.8.1 Environmental Health raised **no objections** subject to conditions to protect human health and the environment. The development would accord with policies ENV14, ENV12, ENV13 of the Local Plan, and the NPPF.

13.9 G) Archaeology

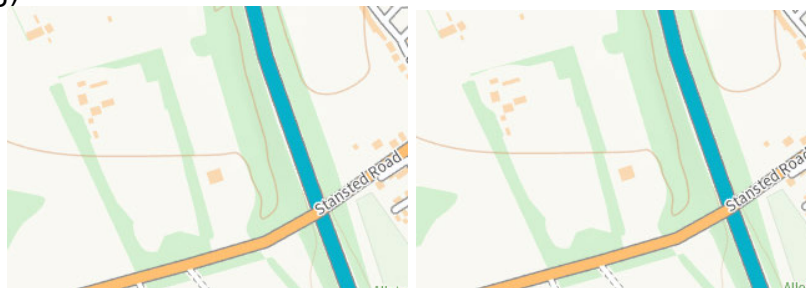
13.9.1 The Archaeology Officer was consulted on the previously refused scheme (UTT/20/1643/FUL) for a scheme of 11 no. dwellings and raised **no**

objections subject to a programme of trial trenching followed by open area excavation. Archaeology recommended the same conditions in the consultation response sent directly to the Planning Inspectorate (dated 25 October 2023). There is no material change in circumstances that would alter the necessity of these conditions, however, the scheme is recommended for refusal. The development would need to comply with paragraph 192(b) of the NPPF, and policy ENV4 of the Local Plan.

13.10 H) Flood risk and drainage

13.10.1 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary in such areas, making it safe for its lifetime without increasing flood risk elsewhere (see paragraphs 159-169 of the NPPF).

13.10.2 Although the site falls within Flood Zone 1, footnote 55 in paragraph 167 of the NPPF states that a site-specific Flood Risk Assessment (FRA) should accompany all proposals in Flood Zone 1 involving sites of 1 hectare or more; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use. The first criterion applies on this occasion. The following images show the extent of flooding from rivers (fluvial flooding) and from surface water (pluvial flooding).



13.10.3 Paragraph 167 of the NPPF states, amongst other things, that development should only be allowed in areas at risk of flooding where, in the light of the site-specific flood-risk assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

13.10.4 The application is supported by an FRA and drainage strategy, which conclude that “*there would be no flood risk affecting property or the*

welfare of residents and the public arising from the development' with no additional flood risk on and off site from pluvial, coastal or fluvial flooding sources³³. The drainage strategy would include borehole soakaways to drain the site combined with attenuation tanks in order to allow for a 1 in 100 year storm plus 40% climate change allowance and plus another 10% allowance for urban creep³⁴. The proposed foul sewer system would drain under gravity to 5 no. package treatment plants and the treated effluent would drain to the borehole soakaways³⁵.

13.10.5 The Environment Agency raised **no objections**; however, the Essex County Council (as the Lead Local Flood Authority, LLFA) provided written advice directly to the Planning Inspectorate, raising a **holding objection** as:

- More information is required regarding the discharge from the sewage discharge plants and it should be evidenced what the discharge rates are expected to be and evidenced that there is sufficient capacity for all events in the system and the soak away tanks. The application must also provide a pipe and manhole schedule demonstrating the flows.
- Infiltration testing results are required with rates.

Therefore, the development would fail to comply with paragraph 167 of the NPPF and policy GEN3 of the Local Plan. This could place an unacceptable risk to human lives and lead to property damages, and as such, the technical objection from this statutory consultee attracts significant weight.

13.11 I) Housing mix and affordable housing

13.11.1 Policy H10 is applicable on sites of 0.1ha and above or of 3 no. or more dwellings (being relevant on this occasion), requiring a significant proportion of market housing comprising small properties. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. As such, notwithstanding policy H10 requiring smaller properties, more recent evidence in the Local Housing Needs Assessment (LHNA) Update (October 2023) prepared for the Draft Uttlesford Local Plan 2021 – 2041 (Regulation 18) recommends the following housing mix:

	1-bedroom	2-bedrooms	3-bedrooms	4+- bedrooms
Market	5%	35%	40%	20%
Affordable home ownership	20%	45%	25%	10%
Affordable housing (rented)	35%	35%	25%	5%

13.11.2 The LHNA shows there is a particular need for 2-bed accommodation and for rented affordable housing to provide a range of different sizes of

³³ Design and Access Statement, Appendix XIV (Flood Risk Assessment), paragraphs 7.12-7.13.

³⁴ Design and Access Statement, Appendix XIV (Flood Risk Assessment), paragraphs 7.5.

³⁵ Design and Access Statement, Appendix XIV (Flood Risk Assessment), paragraphs 7.8.

homes, including 30% of 3+ bedroom properties. However, this evidence has not yet been formally accepted by the LPA and holds limited weight. The Housing officer has not clarified whether the proposed housing mix would be acceptable in compliance with policy H10 of the Local Plan.

- 13.11.3** The 40% affordable housing contribution is triggered as the site exceeds 0.5 hectare and the scheme comprises a 'major development'³⁶. The application would provide an off-site financial contribution in lieu of the 2 no. affordable units (40% of the total number of units) that would be required. The application has been accompanied by a draft Heads of Terms. The Housing Officer supports this approach subject to a financial viability assessment. Notwithstanding this and the draft Heads of Terms, no legal agreement that would provide an appropriate mechanism to secure the necessary contribution has been submitted with the application. In the absence of such mechanism, the development would fail to comply with policy H9 of the Local Plan. The legal agreement would also need to cover the LPA's reasonable legal costs and monitoring fee.

13.12 J) Planning obligations

- 13.12.1** Paragraph 57 of the NPPF sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations. The following paragraph identifies those matters that the LPA would seek to secure through a planning obligation in accordance with the Supplementary Planning Document – Developer's Contributions (March 2023) and the Essex County Council's Developers' Guide to Infrastructure Contributions.

- 13.12.2** The development fails to provide the necessary mechanism to secure the following planning obligations that comply with CIL regulations and paragraph 57 of the NPPF:

- Payment of off-site financial contribution in lieu of 2 no. affordable units.
- Payment of the Council's reasonable legal costs.
- Payment of monitoring fee.

- 13.12.3** If the scheme were acceptable, a legal agreement to secure the above Heads of Terms would be expected to be signed, to ensure the proposal would accord with policy GEN6 of the Local Plan, which seeks to secure the required provision of appropriate infrastructure to mitigate the impacts of the development. Such a legal agreement would also ensure compliance with policy H9 of the Local Plan, as shown in Section I above.

³⁶ 'Major development' is defined in the NPPF Glossary (p.68): For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000 sqm or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

13.13 K) Planning balance

13.13.1 The following public benefits of the scheme are discussed in the next paragraphs:

- Provision of 5 no. units to the 5YHLS – limited weight.
- Ecological and biodiversity enhancements and net gains – limited weight.
- Sustainable energy and construction measures – limited weight.
- Economic benefits – limited weight.

13.13.2 The net contribution of 5 no. units to the 5YHLS would be a meaningful but rather limited public benefit arising from the development, as it would make little difference to the overall supply of housing in the district. The existing housing surplus would further limit the extent of this benefit.

13.13.3 The proposal would also provide a modest contribution towards the wider local economy during and post construction. However, the limited number of units proposed means that the public benefit would also be limited to its extent. The proposal would offer ecological and biodiversity enhancements and net gains, as well as sustainable energy measures (e.g. air source heat pumps); however, these matters would only attract limited weight.

13.13.4 On the other hand, the adverse impacts of the proposed development would include:

- Harm to the open countryside character of the area – significant weight.
- Area void of services and facilities (sustainability concerns) – moderate weight.
- Inefficient use of the land – significant weight.
- Potential flood risk increase on site and/or elsewhere due to insufficient information to demonstrate otherwise – significant weight.
- Lack of mechanism to secure financial contribution in lieu of affordable housing – significant weight.

13.13.5 The harm to the rural character and appearance of the site and area has been found to be significant in Section A of this report. As the conflict with part of policy S7 would reflect a direct conflict with paragraph 174(b) of the NPPF, this harm would be afforded significant weight. In addition, the area is not easily accessible to sustainable public transport or everyday services and facilities, raising sustainability concerns due to the heavy car reliance of the future occupants of the proposed bungalows; given the number of trips that would be generated by 5 no. new dwellings, this matter would be afforded moderate weight.

13.13.6 The proposed housing density has been found in Section A to represent an inefficient use of the land, which would obstruct the continuous achievement of an appropriate supply of housing in the district and

compromise the ability of future generations to meet their housing needs. This matter on its own is sufficient to outweigh the benefits that would result from the provision of just 5 no. units. As the NPPF in paragraph 125(c) requires that LPAs should refuse applications which they consider fail to make efficient use of land, this policy conflict and adverse impact of the proposed development would be afforded significant weight.

13.13.7 In the absence of information to demonstrate otherwise, the proposal would potentially increase flood risk on site and/or elsewhere, which could endanger human lives and/or damage properties, which would attract significant weight.

13.13.8 Finally, the development would fail to provide the necessary mechanism (such as a s106 agreement) to secure the following planning obligations that comply with CIL regulations and paragraph 57 of the NPPF:

- Payment of financial contribution in lieu of affordable housing.
- Payment of the LPA's reasonable legal costs.
- Payment of monitoring fee.

13.13.9 Consequently, when assessed against the policies in the NPPF taken as a whole, and as there are no other material considerations indicating otherwise, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. The proposal would not be sustainable development for which paragraph 11(d) of the NPPF indicates a presumption in favour.

13.14 L) Other matters

13.14.1 From 1 October 2013 the Growth and Infrastructure Act inserted two new provisions into the Town and Country Planning Act (1990) ('the Act'). Section 62A allows major applications for planning permission, consents and orders to be made directly to the Planning Inspectorate (acting on behalf of the Secretary of State) where a local planning authority has been designated for this purpose.

13.14.2 The Planning Inspectorate will appoint an Inspector to determine the application. The Inspector will be provided with the application documents, representations and any other relevant documents including the development plan policies. Consultation with statutory consultees and the designated LPA will be carried out by the Planning Inspectorate.

13.14.3 The LPA also must carry out its normal notification duties, which may include erecting a site notice and/or writing to the owners/occupiers of adjoining land.

13.14.4 The LPA is also a statutory consultee and must provide a substantive response to the consultation within 21 days, in this case this period has been extended to the 24th November 2023. This should include a recommendation, with reasons, for whether planning permission should

be granted or refused, and a list of conditions if planning permission is granted.

- 13.14.5** The Planning Inspectorate will issue a formal decision notice incorporating a statement setting out the reasons for the decision. If the application is approved the decision will also list any conditions which are considered necessary. There is no right to appeal.

14. CONCLUSION

- 14.1** The planning balance found that the adverse impacts of the proposed scheme would significantly and demonstrably outweigh the benefits.

- 14.2** Overall, for the reasons given in this report, the proposal would conflict with the development plan as a whole, and there are no material considerations, including the provisions in the NPPF and the benefits of the proposal, which would indicate that the development should be determined other than in accordance with it. Notwithstanding that some consultation responses have not been received yet, the analysis in Section A of this report would be enough to refuse the proposed development.

- 14.3** It is therefore recommended that the application be refused on the grounds specified in section 15 of this report.

15. REASONS FOR REFUSAL

- 1** The proposed development would introduce built form in the countryside with urbanising effects, failing to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. The proposal, by reason of its location, residential use scale and appearance, would harm the rural character of the site and area to the detriment of the intrinsic tranquillity and sense of openness of the countryside. The area is void of services and facilities and sustainable transport options within easy reach, raising sustainability concerns. The adverse impacts of the development would significantly and demonstrably outweigh its minimal benefits. Therefore, the proposal would fail to comply with policies S7, GEN1(e) and GEN2 of the adopted Uttlesford Local Plan (2005), and the National Planning Policy Framework (2023).

- 2** Notwithstanding the reason for refusal above, the proposed housing density of the scheme would represent an inefficient use of the land, which would obstruct the continuous achievement of an appropriate supply of housing in the district and compromise the ability of future generations to meet their housing needs. Therefore, the proposal would be contrary to paragraphs 119 and 125(c) of the National Planning Policy Framework (2023).

3 Insufficient information has been submitted with the application to demonstrate that the proposed development would not increase flood risk on the application site and/or elsewhere, contrary to paragraph 167 of the National Planning Policy Framework (2023), and policy GEN3 of the adopted Uttlesford Local Plan (2005).

4 The application does not include a mechanism such as a section 106 legal agreement to secure:

- i. Payment of financial contribution in lieu of affordable housing
- ii. Payment of the Council's reasonable legal costs
- iii. Payment of the monitoring fee.

Therefore, the proposal would be contrary to policies GEN6 and H9 of the adopted Uttlesford Local Plan (2005), and the National Planning Policy Framework (2023).