



UTTLESFORD DISTRICT COUNCIL

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The Planning Inspectorate
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14th December 2023

Your ref: S62A/2023/0027

Our ref: UTT/23/2682/PINS

Please ask for Mrs Rachel Beale [REDACTED]
[REDACTED]

Dear Major Casework Team,

Regarding: Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013 (as amended)

Thank you for your letter of 3 November 2023 confirming that the Planning Inspectorate has received a valid application seeking planning permission for the erection of 40 no. dwellings, including open space landscaping and associated infrastructure at Land at Warish Hall Farm north of Jacks Lane, Smiths Green Lane, Takeley, Essex.

The Council has now had the opportunity to review all the documentation that was submitted by the Applicant in respect to the proposals and wishes to make representations in respect of this application, incorporating comments from internal/external non-statutory consultees and including observations in respect of the manner in which the application is to be determined.

The application was presented to Members of the Planning Committee on 13 December 2023. In addition to the issues defined in the Officers' Committee report, the main planning issues in respect of which the Council would like the Inspector to consider as part of their assessment of the proposals include:

Draft Local Plan (Regulation 18)

The new Uttlesford Local Plan has now been released for Regulation 18 Preferred Options consultation and it should be noted that this site is included within it as part of the call for sites. It is listed as part of a wider parcel of land for mixed use including residential. As it is in such an early stage of the process it carries negligible weight when considering the proposed development.

Development Limits & Impact on the Character and Appearance of the Area

Chapter 15 of the NPPF (2023) contains overarching policies for conserving and enhancing the natural environment. It indicates that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Uttlesford 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 and should be given moderate weight.

The proposed new dwellings and access to the development would be apparent from the Protected Lane and the overall built form would be noticeable at night when streetlights and other lights from the development would be likely to be seen. This would result in the quality of the experience of the area being diminished. The proposal would create an urbanised environment in place of the current pasture field. The development would introduce an urban form of development that would not be sympathetic to the local character and landscape setting, and this urbanising effect of the proposal would result in the intrinsic character of the countryside being adversely affected, in conflict with Local Plan Policy S7.

The Council considers that the proposal, due to the adverse effect upon the character and appearance of the area, particularly when viewed from the surrounding area, would be contrary to policies S7 and GEN2 of the Uttlesford Local Plan (2005).

Countryside Protection Zone (CPZ)

The site is also located within the Countryside Protection Zone for which Uttlesford Local Plan Policy S8 applies. Policy S8 states that 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.

The application site is a large pastoral field and contributes positively to the open characteristics of the CPZ and the introduction of built form on the site would result in a reduction of the open characteristics of the countryside around the airport. Therefore, the proposal would result in an adverse effect on the open characteristics of the CPZ in conflict with Local Plan Policy S8.

Impact on Heritage Assets

The proposal has the potential to adversely impact the setting of a designated and non-designated heritage assets, namely:

- Smiths Green Conservation Area
- Protected Lane

The proposals are considered to fail to preserve the special interest of the listed building, Hollow Elm Cottage, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The harm would be less than substantial and at the low end of the spectrum with regards to the NPPF (2023).

The Council requests the Inspector takes into consideration the impact the proposal would have on the significance of the aforementioned heritage assets and to place importance upon the preservation

of these assets. Of particular concern to Members of the planning committee is the protected lane and the experience of the users of this lane and its historic significance in its open, pastoral setting.

Consultation Documentation

The following documentation is provided as part of the Uttlesford District Council's consultation response in which should form part of the Inspectors assessment of the proposals.

1. Officers Committee Report
2. Smiths Green Conservation Area Map
3. 5-year Land Supply Statement and Housing Trajectory 9 October 2023
4. Draft S106 from dismissed S62a ref: S62A/2023/0016

Corresponding full application UTT/22/3126/FUL

Along with the comments received as part of the PINS application, comments from ECC Place Services Ecology have been received relating to the aforementioned application. Revised plans have been submitted under the aforementioned application, following the dismissal of S62a application S62A/2023/0016. The revised plans also form this S62a application. Therefore, given the similarities between the two applications, the comments are forwarded (document numbered 5.) as they were used to prepare the committee report and assessment of this application.

Suggested Conditions

Following discussions by Members of the Planning Committee on 13 December 2023, it was further advised to Members that if the Inspector is mindful of granting consent for the works, that the additional following conditions and S106 Heads of Terms also be imposed in addition to those provided by consultee responses sent along with this consultation response:

Conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

REASON: In accordance with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the approved plans.

REASON: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment, in accordance with the Policies of the Uttlesford Local Plan (adopted 2005) as shown in the Schedule of Policies.

3. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Ecology Solutions, October 2021), Ecology Briefing Note (Ecology Solutions, May 2023) and Bat Survey Report (Ecology Solutions, November 2021) as 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.”

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

4. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), all exterior lighting shall be capped at the horizontal with no upward light spill.

Reason: In the interests of flight safety and to prevent distraction and confusion to pilots using Stansted Airport.

5. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no reflective materials other than clear or obscure glass, including solar PV panels, shall be added to the building without the express consent of the local planning authority. An aviation perspective Glint & Glare assessment may be needed.

Reason: Flight safety - to prevent ocular hazard and distraction to pilots using STN.

6. No development shall take place until a Reptile Mitigation Strategy addressing the mitigation targeting reptiles has been submitted to and approved in writing by the local planning authority. The Reptile Mitigation Strategy shall include the following:

- Purpose and conservation objectives for the proposed works.
- Review of site potential and constraints.
- Detailed design(s) and/or working method(s) to achieve stated objectives.
- Extent and location/area of proposed works on appropriate scale maps and plans.
- Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- Persons responsible for implementing the works.
- Details for monitoring and remedial measures.
- Details for disposal of any wastes arising from works.

The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To allow the LPA to discharge its duties under the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

7. Prior to commencement, a Great Crested Newt Method Statement shall be submitted to and approved in writing by the local planning authority. This will contain precautionary mitigation measures and/or works to reduce potential impacts to Great Crested Newt during the construction phase. The measures and/works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

8. 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 prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.
9. No development above slab level shall commence until the external materials of construction for the development have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

REASON: In the interests of the appearance of the development and to accord with Policy GEN2 of the Uttlesford Local Plan 2005.

10. Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the occupation of the development. The content of the LEMP shall include the following:

- Description and evaluation of features to be managed.
- Ecological trends and constraints on site that might influence management.
- Aims and objectives of management.
- Appropriate management options for achieving aims and objectives.
- Prescriptions for management actions.
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- Details of the body or organisation responsible for implementation of the plan.
- 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 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 will be implemented in accordance with the approved details.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of

the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

11. Prior to occupation of the development, the access as shown in principle on submitted drawing shall be provided to include the following:
 - The provision of a suitable bell mouth access with appropriate radii to accommodate the swept path of vehicles regularly using the site access.
 - Clear to ground visibility splays with dimensions of 2.4 metres by 43 metres to both the north and south along Smiths Green. Such vehicular visibility splays shall be retained free of any obstruction at all times thereafter.
 - Clear to ground visibility splays with dimensions of 2.4 metres by 43 metres to both the north and south along Smiths Green at its junction with the shared use cycleway. Such vehicular visibility splays shall be retained free of any obstruction at all times thereafter.
12. Development shall not be occupied until such time as their associated vehicle parking areas indicated on the approved plans, have been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.
13. Development shall not be occupied until such time as secure, covered, convenient cycle parking has been provided in accordance with the Essex Parking Standards, such parking shall be connected to the proposed cycleways by cycleway connections.
14. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of 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 transport operator.
15. (a) The development shall be carried out in accordance with the Written Scheme of Investigation for Archaeological Evaluation by RPS (January 2023) Version 3.

(b) Following the completion of the works set out in the Written Scheme of Investigation, A mitigation strategy detailing the excavation / preservation strategy shall be submitted to the local planning authority for approval in writing.

(c) No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.

(d) The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

16. Prior to installation, a lighting design 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 should any other external lighting be installed without prior consent from the local planning authority.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with Policy GEN7 of the Adopted Local Plan and the National Planning Policy Framework.

17. No landscaping development to take place until a detailed planting plan is submitted for approval to the LPA in consultation with the aerodrome safeguarding authority for Stansted Airport.

Reason: Flight safety – Birdstrike risk avoidance; to prevent any increase in the number of hazardous birds in the vicinity of Stansted Airport (STN) that would increase the risk of a Birdstrike to aircraft using STN.

S106 Heads of Terms (details not yet known)

- Secondary Education
- School Transport
- Libraries
- Provision of 40% affordable housing
- Provision of 5% wheelchair accessible and adaptable dwellings (M4(3) – Building Regulations 2010.
- Provision and long-term on-going maintenance of public open space.
- A financial contribution towards sustainable transport measures

Summary

As it stands currently, the proposed development does not address the reasons for refusal from the dismissed S62a application (ref. S62A/2023/0016).

Yours sincerely

Dean Hermitage MA Mgeog MRTPI
Director of Planning