

Land known as Jacks, Smiths Green Lane, Takeley Response to PINS

Prepared in response to the questions raised by The Planning Inspectorate on 22nd December 2023 in relation to the Section 62A Application Ref. No. S62A/2023/0027.

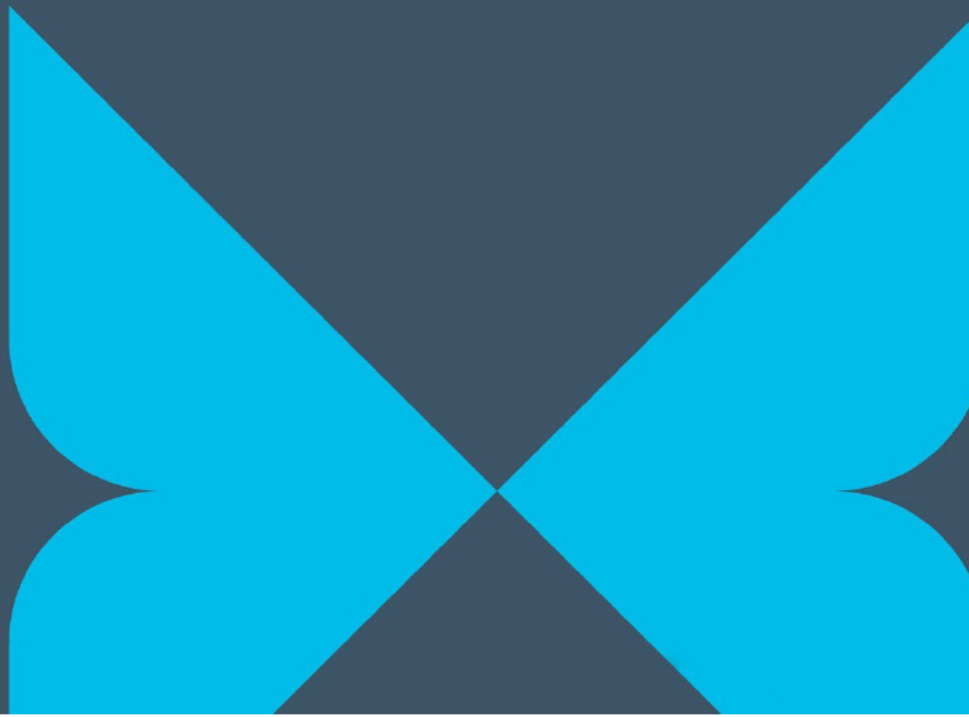


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Document History

Date	Version	Author	Revision/ Notes
03.01.2024	Draft 1	J.Spencer	Draft for Review
11.01.2024	Draft 2	J.Spencer	Updated Draft following update to UDC 5-year HLS position
12.01.2024	Draft 3	D.Poole	Comments
12.01.2024	Version 1	J.Spencer D.Poole	

1. Introduction

- 1.1. This Document has been produced in response to the questions raised by the Planning Inspectorate (PINS) in an email dated 22nd December 2023 which relates to

the Section 62A Application (Ref. No. S62A/2023/0027) relating to the development at the land known as Jacks ('The Site').

- 1.2. The email included a number of questions/ statements directed to The Applicant, Essex County Council, Uttlesford District Council as well as a number of points directed at all parties.
- 1.3. This document will respond to the six points raised directly to the Applicant which are as follows:
 1. Clarification on the width of the Site access.
 2. Implications of the Revised NPPF (December 2023) in relation to Housing Delivery and Housing Land Supply.
 3. Reference to the Inspector's findings on the previous Section 62A application on the Site in regard to the impacts on landscape and visual character resulting on the wider development and byway improvement works.
 4. Update on the discussion with ECC Highways and Place Services Ecological Advice Service regarding the improvements to the Byway.
 5. Concerns relating to the necessary agreements to allow the Byway improvements to be carried out.
 6. Proposed extension of time to 28th March 2024 within which to issue the decision.

2. Width of Site Access

- 2.1. A diagram has been requested a diagram showing the width of the bell-mouth where the access point meets Smiths Green Lane.
- 2.2. Dwg. No. WH202.WST.P1.22.DR.PK.10.51 – Jacks Green, Entrance Works is at a scale of 1:2500 @ A2 and therefore the dimension on the Site access where it meets Smiths Green Lane are taken from this drawing.
- 2.3. This drawing has been updated and reissued with this dimension added as per the Inspector’s request. It is noted that this dimension has remained broadly consistent with both application Ref. No UTT/21/1987/FUL subject to Appeal APP/C1570/W/22/3291524 and the previous application Ref. No. Section 62A/2023/0016 albeit that the proposed materiality has been refined.
- 2.4. Figures 1.1-1.3 below which sets out the dimensions of the access proposed under each application.

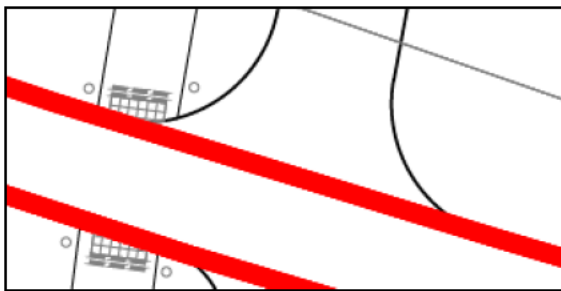


Figure 1.1 – Originally proposed Access (Ref. No. UTT/21/1987/FUL)

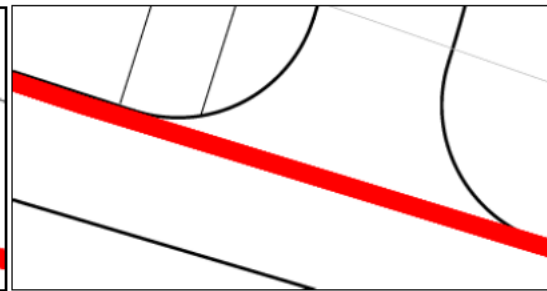


Figure 1.2 – Previously proposed Access (Ref. No. S62A/2023/0016)

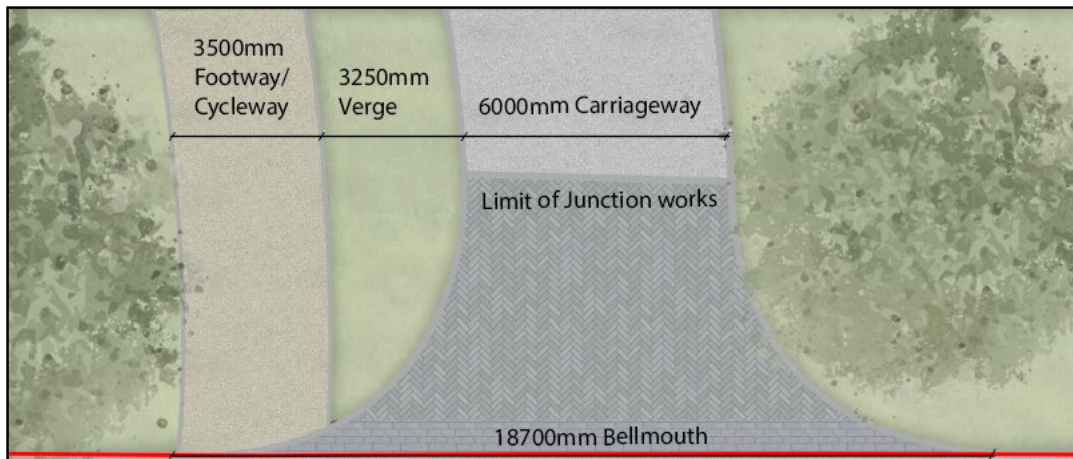


Figure 1.3 – Proposed Access (Ref. No. S62A/2022/0027)

- 2.5. Accordingly, the following drawing has been submitted alongside this document which shall superseded the previous iteration as set out under paragraph 2.2:

- **Dwg. No. WH202.WST.P1.22.DR.PK.10.51 Rev 02 – Jacks Green, Entrance Works**

3. Implications of the Revised NPPF, December 2023

- 3.1. A revised version of the National Planning Policy Framework (NPPF) was published in December 2023, which includes a number of changes.
- 3.2. The changes most relevant to this Application relate to requirements for Housing Land Supply and the publication of an updated Housing Delivery Test, which was published alongside the revised NPPF.
- 3.3. A useful summary on how the revised provision of the NPPF (in relation to Housing Land Supply and Housing Delivery Test) is provided at **Appendix A**.

Housing Land Supply and Housing Delivery

- 3.4. Paragraph 11 of the revised NPPF is unchanged in terms of the wording of the presumption in favour of sustainable development, although amendments to the footnotes are relevant to the Application.
- 3.5. For decision taking, paragraph 11(d)(ii) sets out 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: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*”
- 3.6. Footnote 8 of the revised NPPF sets out that the tilted balance will apply under paragraph 11 (d)(ii) will apply where:
 - a) the Local Planning Authority cannot demonstrate a 5 year housing land supply (or a 4 year supply, if applicable, as set out in paragraph 226) of deliverable housing sites and does not benefit from the provisions of paragraph 76; or
 - b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.
- 3.7. With regard to (a) above, the Council’s latest 5-Year Housing Land Supply Statement and Housing Trajectory dated 9th October 2023 (See Appendix F of the Planning Statement Dated: October 2023) identified a 5.14 year supply for the period between 2023 and 2028, which is only marginally above the 5 year supply, whilst affording a 5% buffer.
- 3.8. However, as set out in the updated position published as part of the late list for the committee on 10th January 2024 (See **Appendix B**), UDC are now required to provide a 20% buffer when calculating their 5-Year Housing Land Supply due to the significant under delivery demonstrated by a Housing Delivery Test Score of 58%, significantly below 75% as set out under paragraph 77 of the revised NPPF.

- 3.9. The Housing Delivery Test: 2022 Measurement was published on 19th December 2023 (See **Appendix C**), set out UDC's housing delivery at 58% over the previous three-years. This is significantly below the 75% threshold which triggers the presumption in favour and puts UDC as one of the poorest performing Authorities in regard to housing delivery, within the bottom 12% of all Councils nationally.
- 3.10. Paragraph 226 of the revised NPPF sets out circumstance by which certain Local Planning Authorities will only be required to demonstrate a 4-Year supply of deliverable sites, instead of a minimum of 5-years. This policy applies to authorities which: *"have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need."*
- 3.11. UDC confirm in their updated 5-Year HLS position (**Appendix B**) that although UDC have reached the Regulation 18 stage of their Emerging Local Plan, they did not include or consult on an updated policies map and as such the threshold for only requiring a 4-Year supply does not apply. However, the Applicant would observe that the Application Site is allocated within the draft Regulation 18 Plan (See extract Figure 7 of the Planning Statement dated October 2023), and therefore, this should be given consideration and weight.
- 3.12. The provision of paragraph 77 outlined above therefore apply, and UDC are required to demonstrate a 5-Year Housing Land Supply with a 20% buffer rather than just 5% as set out in their latest 5-Year Housing Land Supply Statement and Housing Trajectory dated 9th October 2023 (See Appendix F of the Planning Statement Dated October 2023).
- 3.13. As such, rather than the overall target of 3,591 new homes with the 5% provision, a further 513 homes would be required (additional 15% required for the 20% buffer) totalling to an overall require of 4,104 new homes.
- 3.14. Accordingly, the supply identified in UDC's most recent 5-Year Housing Land Supply Statement and Housing Trajectory dated 9th October 2023 (See Appendix F of the Planning Statement Dated October 2023) of 3,695 falls short of the required overall target (including a 20%) by 409 providing a 4.5 years supply as confirmed in their updated note included in the late list for the Planning Committee on 10th January 2024 (See **Appendix B**).
- 3.15. The proposed development would therefore make a notable contribution towards to required additional homes to meet UDC's target for housing supply over the period between 2023 and 2028.
- 3.16. Furthermore, for the reasons set out above, including a lack of housing supply, under delivery of housing and an out-of-date local plan, it is no longer disputed that the presumption in favour of sustainable development (the tilted balance) is engaged in this instance. This means that given that none of the policies of the Framework would provide the basis for a clear reason for refusal (paragraph 11 (d)(i)), any adverse impacts of approving the development will need to be significantly outweigh the benefits when weighed against the policies of the framework as a whole.

The Tilted Balance

3.17. The proposals include a number of public benefits including:

- Provision of 40no. dwellings (moderate benefit)¹; including
- Provision of 16no. affordable units (significant benefit)²;
- Provision of publicly accessible open space including a play area (moderate weight)³
- Economic benefits from employment during construction (moderate weight)⁴
- Increased local spending and additional council tax (limited weight)⁵

3.18. Both the District Council and Parish Council were the only consultees to raise any adverse impacts arising from the proposed development, this is despite the fact that no other statutory consultees identify any significant harm.

3.19. Place Services Historic Buildings and Conservation Advice Team identified a low level of less than substantial harm, with no specific objections raised by Historic England.

3.20. Furthermore, Essex Country Council Highways Team (formal comments awaited) and Place Services Ecological Advice (See **Appendix D**) Scheme are now satisfied with the proposed works to the access and the Byway, both of which have been reassessed under this application, giving rise to no greater level of harm than was identified under the previous Section 62A Application (Ref. S62A/2023/0016).

3.21. Accordingly, it is contended that the proposals of this application include benefits that would not be significantly and demonstrably outweighed by any identified adverse harm, for which none of the consultees (with the exception of the Parish and the District) have identified. Accordingly, in line with the provisions of paragraph 11(d)(ii) of the revised NPPF, planning permission should be granted.

¹ See paragraph 85 of the Section 62A Decision Ref. S62A/2023/0016.

² See paragraph 85 of the Section 62A Decision Ref. S62A/2023/0016.

³ See paragraph 87 of the Section 62A Decision Ref. S62A/2023/0016.

⁴ See paragraph 88 of the Section 62A Decision Ref. S62A/2023/0016

⁵ See paragraph 88 of the Section 62A Decision Ref. S62A/2023/0016

4. Impact on Landscape and Visual Character

- 4.1. In the third questions/statement within the email dated 22nd December 2023, PINS set out the findings of the previous Inspector, set out at paragraph 40 of the Decision on the previous Section 62A Application relating to the Site.
- 4.2. This point does not ask or request anything, but is associated with the following question under point 4 in the email dated 22nd December 2023.

5. ECC Highways and Place Services Ecology Position

- 5.1. In the fourth questions/statement within the email dated 22nd December 2023, PINS request an update on the position of both Essex Country Council (ECC) Highways and Place Services Ecological Advice Team in regards to the proposed Byway Improvements.
- 5.2. The Applicant has been in dialogue with both ECC Highways and Place Services Ecological Advice Team on this matter, given that it forms the essence of the reasons for refusal on the previous Section 62A Application relating to the Site. Accordingly, we understand there is no objection to the proposed solution for lighting and the byway improvements based on the updated MMA Report [05/12/2023] which has been submitted alongside this report. In response to the Place Services comments a revised scheme of lighting has been tested within the latest report with a different luminaire fitted and with the following matters clarified:
 - i. The columns to be on one side only as requested by Place Services;
 - ii. Back plates are still to be affixed which will further improve the protection afforded to the rear of the column;
 - iii. The lighting luminaire has been changed to a more sensitive type which is "Dark Sky" Accredited but still able to be adopted;
 - iv. The lighting contours are more contained with less light spill;
 - v. Lights can be programmed to 3000K or 2700K if the County are able to accept this;
 - vi. Vertical illuminance calculations have been provided and demonstrate levels below 0.4lux.
- 5.3. As set out in the comments, both parties are satisfied with the proposed Byway Improvement scheme albeit that conditions have been proposed to address and secure the detail and believe it meets the concerns raised by the Inspector in the previous Section 62A refusal.

6. Landowner Agreement for Byway Improvement Works

- 6.1. As discussed with ECC Highways the Byway is an adopted Byway and therefore work is able to be subject to control by Essex Country Council by way of a formal Section 278 Agreement. The land is in addition in the ownership of Kennedy Trust who are party to the Section 106 Agreement and with whom Weston Homes have an Agreement to purchase the necessary rights to enable the development to proceed.
- 6.2. As clarified in their Comments ECC Highways are content with the proposed Byway improvements and that an appropriate Agreement for the works will be proceedable, in the event that planning permission is granted.

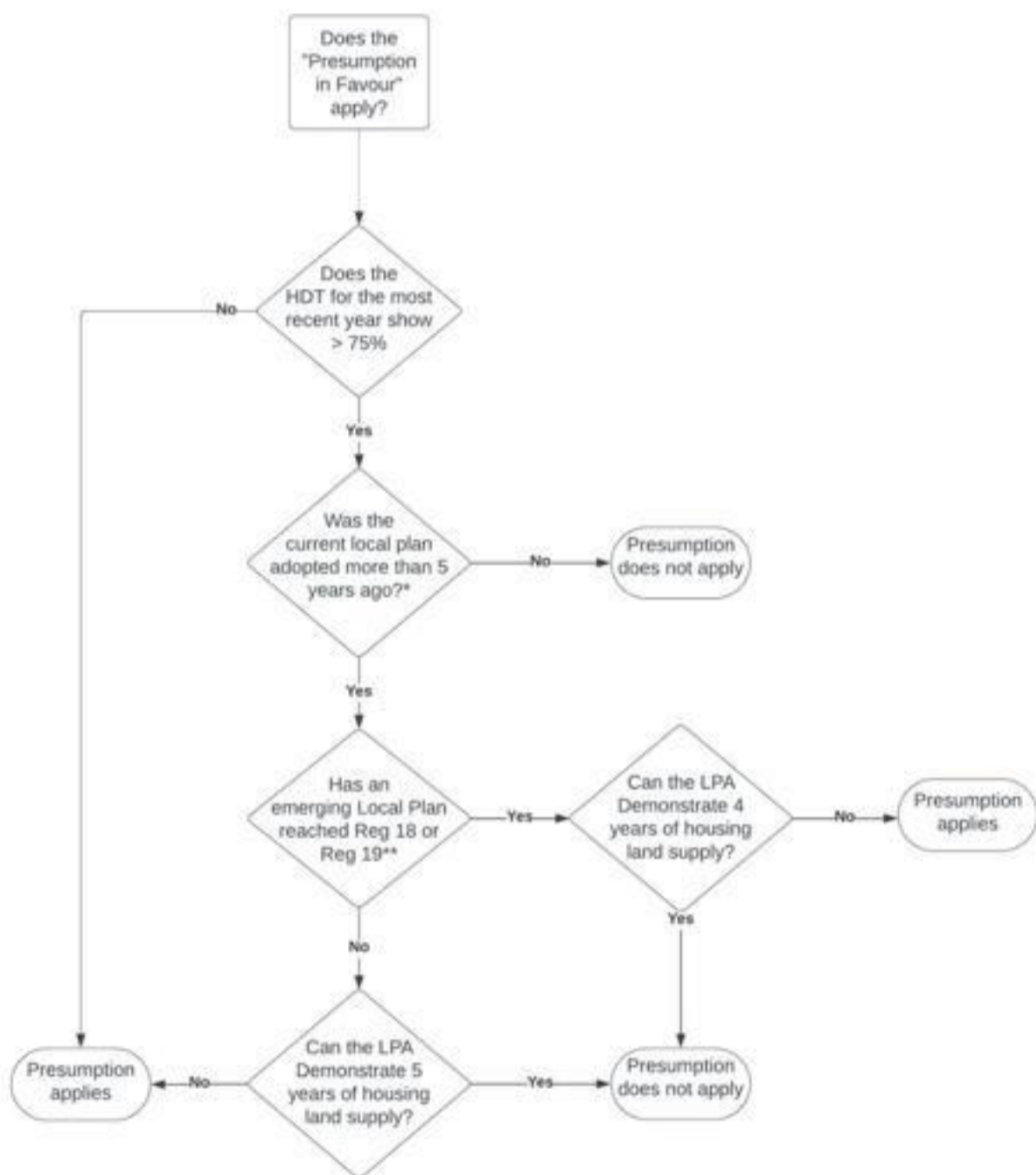
7. Proposed Extension of Time

- 7.1. PINS final point directed to the Applicant related to a request for an extension of time on the Application to 28th March 2023.
- 7.2. The Applicant has since agreed to this in an email sent on 2nd January 2024 (see email at Appendix A of the Planning Statement Dated: October 2023).

8. Questions/ Statements to All

- 8.1. In the email dated 22nd December 2023, PINS requested that a completed Section 106 Agreement or Unilateral Undertaking is require in advance of the hearing.
- 8.2. The Applicant has circulated the draft Agreement and substantive responses have now been received from all parties with a view to completing the Agreement prior to the hearing which is scheduled for 13th February 2024. We also note ECC's request for contributions that will be included within the Agreement.
- 8.3. Furthermore, PINS also requested that all parties confirm they can respond to the email dated 22nd December 2024 by 12th January 2024. The Applicant confirms at this juncture this is realistic and achievable although there will be a number of parties to sign the Agreement and the respective Councils only seal on certain days each week, a small extension may be necessary..
- 8.4. PINS also note that the comments in the email dated 22nd December 2023 are interim comments and that the appointed person is yet to fully consider the application. This is noted by the Applicant.
- 8.5. Finally, PINS also set out that formal notification of the hearing will be sent no later than 2 weeks before the hearing which is set to take place on 13th February 2024. Again, this is duly noted by the Applicant.

Appendix A – Summary of updated to the NPPF relating to Housing Supply and Delivery



* and did the plan identify a 5 year supply at examination

** including both a policies map and proposed allocations towards meeting 5 years of housing need

Appendix B – Late List published for Planning Committee on 10th January 2024

Late List –Planning Committee 10/01/2024

Officers please note: Only Late items from **STATUTORY CONSULTEES** are reproduced in full.
Others are summarised.

Statutory consultees are listed below:

Highway Authority
The Health & Safety Exec
Highways Agency
Local Flood Authority
Railway
Environment Agency
Historic England
Garden History Society
Natural England
Sport England

Manchester Airport Group (MAG is the highway authority for the airport road network + the also section of Bury Lodge Lane running south from the northside entrance to the airport. On these roads, it therefore has the same status as Essex CC and National Highways do for the roads that they administer.)

This document contains late items received up to and including the end of business on the Friday before Planning Committee. The late list is circulated and placed on the website by 5.00pm on the Monday prior to Planning Committee. This is a public document and it is published with the agenda papers on the UDC website.

UDC Update 5-Year Housing Land Supply Status

1. The purpose of this note is to provide clarity on the current status of UDC's 5-Year Housing Land Supply (5YHLS) following the release of the latest Housing Delivery Test (HDT) by government (on 19 December 2023). In addition, the latest version of the National Planning Policy Framework (NPPF) (published on the same date) introduces policy changes to how the 5YHLS test is applied for Local Authorities that have published a draft Local Plan. This has potential implications going forward. Context has therefore been provided on how this relates to UDC.

Housing Delivery Test Update and Ramifications for 5 Year Housing Land Supply

2. In October 2023, UDC published an updated 5-Year Housing Land Supply Statement which set out a list of permitted residential development sites deemed to be 'deliverable' (in line with the NPPF definition) within a 5-year period. This statement relied upon planning permissions data up to 31st March 2023 so as to align with the most recently completed annual monitoring exercise which confirmed the extent of housing completions within the district up to this point in time.
3. The 5YHLS statement identified that, between 1st April 2023 and the 31st March 2028, the number of homes which could be considered 'deliverable' amounted to 3,695. The Objectively Assessed Need (OAN) over the same period, including a mandatory 5% buffer, was 3,591. This meant the Council could demonstrate a surplus of 104 homes, which translated to a housing land supply of 5.14 years.
4. Since the publication of the 5YHLS the Government published the latest HDT results. This test measures how Local Authorities are performing with regard to housing completions when compared against their OAN 'target' across a preceding 3-year period. Within the most recent HDT, this period comprised 1st April 2019 to 31st March 2022. During this period, housing completions within the district (1,055) made up 58% of the required number of homes (1,824). Whilst a significant number of residential permissions have been granted in recent years, many have not yet been built and so are not accounted for in the backwards looking HDT.

What does this mean for UDC?

5. Paragraph 79 (c) of the NPPF clarifies that, with regard to the HDT:

“where delivery falls below 75% of the requirement over the previous three years, the presumption in favour of sustainable development applies, as set out in footnote 8 of this Framework, in addition to the requirements for an action plan and 20% buffer.”

6. The mandatory 5% buffer applied to the 5YHLS (mentioned in Paragraph 3 above) must now be replaced with a 20% buffer. This has ramifications for the Council's 5YHLS position as detailed below:

	Supply (as of 1 st April 2023)	OAN	Buffer	Total Need	Surplus/Deficit	Years Supply
October 2023	3,695	3,420	171 (5%)	3,591	104	5.14
January 2024	3,695	3,420	684 (20%)	4,104	- 409	4.50

7. The Council cannot demonstrate a 5YHLS that includes a 20% buffer. UDC's 5YHLS is now 4.5 years and the presumption in favour of sustainable development held within Paragraph 11(d) of the NPPF is automatically engaged when determining planning applications for residential development within the district. In addition, UDC will now need to prepare an action plan to assess the causes of under-delivery and identify actions to increase delivery in future years.

National Planning Policy Framework Revision December 2023

8. On the 20th December 2023, the Government published the latest version of the NPPF which made several changes to the application of the 5YHLS test. Relevant to UDC is Paragraph 226 which states:

“From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years’ worth of housing[...] This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need.[...]These arrangements will apply for a period of two years from the publication date of this revision of the Framework.”

9. Thus, once the Regulation 19 version of the Local Plan has been prepared (including the publication of a Policy Map) this policy would be engaged and UDC will only need to set out a four-year supply (plus a 20% buffer to either requirement due to the HDT performance).

10. Notwithstanding the above, beginning in April 2024, a further round of monitoring of housing completions within the district will be undertaken. This will facilitate the creation of a new 5YHLS statement, taking into account housing completions and new residential permissions between 1st April 2023 and 31st March 2024.
11. To support the Local Plan preparation, residential planning permissions have been recorded to monitor ongoing commitments since the 1st April 2023. The number of new dwellings permitted since this date, up until 30th November 2023, comprises 1,824. When combined with the previous commitments figure within the Regulation 18 Local Plan of 5,722, this totals 7,546 permitted dwellings which are deliverable over the remaining Local Plan period (up to 2041).
12. This growing commitment figure, alongside the NPPF changes made to the application of the 5YHLS which UDC could soon benefit from, suggest that UDC may be able to demonstrate a positive land supply position later this year. However, as the HDT is a retrospective test, housing completions may not be immediately reflective of the strong number of permissions granted.

Item Number	Application reference number	Comment
4	UTT/23/2622/PINS Land South Of (West Of Robin Hood Road) Rush Lane Elsenham	TBC
5	UTT/23/2810/PINS Land To West Of Chelmsford Road Hartford End Felsted	UDC - Principal Conservation Officer The density of the proposed development is uncharacteristic to the area therefore would impact the appearance of its countryside setting, and in turn the designated heritage assets in proximity of the Site. The development would not affect the fabric of the nearby listed buildings however it would affect their setting. The proposal was submitted in outline with full details reserved for future approval therefore design details are not relevant to this application. However, a development of this scale and rural context requires

Appendix C – Summary of Housing Delivery Test: 2022 Measurement (all LPAs under 59% delivery)

Housing Delivery Test: 2022 measurement
Local Planning Authorities

ONS Code	Area Name	Number of homes required			Total number of homes required	Number of homes delivered			Total number of homes delivered	Housing Delivery Test: 2022	Housing Delivery Test: 2022
E07000066	Basildon	974	666	1006	2646	460	317	438	1215	46%	Presumption
E09000006	Bromley	587	427	641	1654	485	272	103	860	52%	Presumption
E07000234	Bromsgrove	501	364	550	1415	267	151	164	582	41%	Presumption
E07000095	Broxbourne	417	303	455	1175	150	202	313	665	57%	Presumption
E08000002	Bury	539	400	591	1530	201	217	289	707	46%	Presumption
E08000033	Calderdale	737	533	789	2058	333	235	443	1011	49%	Presumption
E07000069	Castle Point	323	236	355	914	74	174	205	453	50%	Presumption
E07000061	Eastbourne	611	449	693	1754	200	230	127	557	32%	Presumption
E07000072	Epping Forest	864	634	963	2462	223	198	328	749	30%	Presumption
E07000208	Epsom and Ewell	529	384	577	1490	185	169	117	471	32%	Presumption
E07000087	Fareham	476	342	540	1358	285	117	170	572	42%	Presumption
E07000109	Gravesham	393	436	646	1475	164	205	420	789	53%	Presumption
E07000062	Hastings	394	300	454	1148	86	111	169	366	32%	Presumption
E09000016	Havering	673	489	1806	2968	508	500	627	1636	55%	Presumption
E09000020	Kensington and Chelsea	671	488	627	1786	446	312	191	950	53%	Presumption
E09000023	Lewisham	1526	1110	1667	4303	1283	523	386	2192	51%	Presumption
E07000210	Mole Valley	411	302	456	1169	162	274	247	683	58%	Presumption
E06000044	Portsmouth	794	569	873	2236	270	300	286	856	38%	Presumption
E09000026	Redbridge	1028	748	1123	2899	673	482	283	1438	50%	Presumption
E07000064	Rother	363	490	740	1593	247	175	239	661	41%	Presumption
E08000028	Sandwell	1351	991	1466	3808	467	654	661	1782	47%	Presumption
E07000111	Sevenoaks	647	473	715	1835	414	216	310	940	51%	Presumption
E06000033	Southend-on-Sea	1077	786	1180	3044	218	237	489	944	31%	Presumption
E07000240	St Albans	820	595	892	2307	443	516	314	1273	55%	Presumption
E07000243	Stevenage	348	253	381	982	327	152	84	563	57%	Presumption
E07000215	Tandridge	593	430	644	1667	268	117	246	631	38%	Presumption
E07000102	Three Rivers	567	415	630	1613	456	124	154	735	46%	Presumption
E06000034	Thurrock	1068	764	1137	2969	558	493	319	1370	46%	Presumption
E06000027	Torbay	453	357	559	1370	188	260	312	760	55%	Presumption
E07000077	Uttlesford	654	470	700	1824	507	340	208	1055	58%	Presumption
E07000241	Welwyn Hatfield	794	583	878	2255	673	352	258	1283	57%	Presumption
E07000229	Worthing	805	589	853	2248	396	88	249	732	33%	Presumption

Appendix D – Place Services Ecological Advice Service Comments (Dated: 14/12/23)



14th December 2023

██████████
Uttlesford District Council
London Road
Saffron Walden
CB11 4ER

By email only

Thank you for requesting advice on this application from Place Services' ecological advice service. This service provides advice to planning officers to inform Uttlesford District Council planning decisions with regard to potential ecological impacts from development. Any additional information, queries or comments on this advice that the applicant or other interested parties may have, must be directed to the Planning Officer who will seek further advice from us where appropriate and necessary.

Application: UTT/22/3126/FUL

Location: Land At Warish Hall Farm North Of Jacks Lane Smiths Green Lane Takeley

Proposal: Erection of 40 no. dwellings, including open space landscaping and associated infrastructure

Dear Rachel,

Thank you for re-consulting Place Services on the above application.

No objection subject to securing biodiversity mitigation and enhancement measures

Summary

We have reviewed the Briefing Note: Byway Improvements – Lighting Design (Ecology Solutions, October 2023), Briefing Note: Byway Improvements (Ecology Solutions, June 2023), Briefing Note: Byway Improvements – Bat Survey Report (Ecology Solutions, July 2023), Outdoor Lighting Report (MMA Lighting Consultancy Ltd., September 2023), Lighting Impact Assessment Rev R3 (MMA Lighting Consultancy Ltd., December 2023), Horizontal Illuminance (lux) (MMA Lighting Consultancy, September 2023), Ecological Assessment (Ecology Solutions, October 2021), Ecology Update and Walkover Survey (Ecology Solutions, September 2022), Bat Survey Report (Ecology Solutions, November 2021), Arboricultural Impact Assessment (Barton Hyett Associates, November 2022), Arboricultural Impact Assessment (Addendum) (Barton Hyett Associates, February 2023), Landscape Strategy Rev: P05 (Allen Pyke, February 2023), Illustrative Landscape Masterplan, drawing no. 2951-LA-04 Rev 02 (Allen Pyke, February 2023), Masterplan – Jacks Parcel Coloured, drawing no. WH202.WST.P1.ZZ.DR.PL.10.00 (Weston Homes, August 2022), Master Plan – Jacks Parcel Boundary Strategy, drawing no. WH202.WST.P1.ZZ.DR.PL.10.06 Rev B (Weston Homes, March 2023) and Masterplan – Jacks Parcel Street Lighting Strategy, drawing no. WH202.WST.P1.ZZ.DR.PL.10.08



(Weston Homes, August 2022) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures.

The Briefing Note (Ecology Solutions, February 2023) and additional ecology reports addressed most of our concerns for our previous response dated 13th February 2023. The Briefing Note (Ecology Solutions, May 2023) has also clarified that T13 in the Arboricultural Impact Assessment (Barton Hyett Associates, November 2022) and Arboricultural Impact Assessment (Addendum) (Barton Hyett Associates, February 2023), despite being described as having '*vertical stem wounds*', is considered to have no potential to support roosting bats.

The Lighting Impact Assessment Rev R3 (MMA Lighting Consultancy Ltd., December 2023) has also shown a reduced impact of proposed lighting on Jacks Lane and is now considered acceptable in relation to impacts to nocturnal animals.

We are now satisfied that there is sufficient ecological information available for determination of this application.

This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Ecological Assessment (Ecology Solutions, October 2021), Ecology Update and Walkover Survey (Ecology Solutions, September 2022), Bat Survey Report (Ecology Solutions, November 2021) and Lighting Impact Assessment Rev R3 (MMA Lighting Consultancy Ltd., December 2023) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats, Hazel Dormouse, Great Crested Newt, reptiles, nesting birds, mobile mammal species and invertebrates.

We note that the site lies adjacent to Priority habitat, Lowland Mixed Deciduous Woodland, and has native hedgerows at its boundary which are also considered Priority habitats and are potentially Important for biodiversity under the Hedgerow Regulations 1997. It is noted that where these hedgerows are adjacent to proposed gardens they have been separated by a 1.8m metal mesh fence which will prevent residents from removing or inappropriately managing the Priority habitat hedgerows. It is also noted that some sections of hedgerow are to be removed to facilitate the proposed development. Loss of hedgerows should be compensated on a 'like for like' or 'like for better' basis. New or restored habitats should aim to achieve a higher distinctiveness and/or condition than those lost. A compensation strategy for the loss of hedgerows at the site should be secured as a condition of any consent. A Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) detailing how the retained and adjacent Priority habitats are to be protected during the construction phase should be secured by a condition of any consent.

Common Lizard and Grass Snake were identified on site during reptile surveys. Passive displacement of these reptiles has been recommended within the Ecological Assessment (Ecology Solutions, October 2021) and Ecology Update and Walkover Survey (Ecology Solutions, September 2022). Further details in relation to how reptiles will be protected during the construction phase should be provided in a Reptile Mitigation Strategy which can be secured by a condition of any consent.



Details of the lighting along Jacks Lane, a potentially sensitive bat commuting corridor, has been provided within the Lighting Impact Assessment Rev R3 (MMA Lighting Consultancy Ltd., December 2023). In line with the Ecological Assessment (Ecology Solutions, June 2021), we recommend a Wildlife Sensitive Lighting Strategy for the residential development should also be delivered for this scheme and secured by a condition of any consent to avoid impacts to foraging and commuting bats, especially on the adjacent woodland and vegetated boundaries. This must follow the [Guidance Note 8 Bats and artificial lighting](#) (The Institute of Lighting Professionals, 2023). In summary, it is highlighted that the following measures should be implemented for the lighting design, which could be informed by a professional ecologist:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm-White lights should be used preferably at 2700k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- If light columns are required, they should be as short as possible as light at a low level reduces the likelihood of any ecological impact. However, the use of cowls, hoods, reflector skirts or shields could also be used to prevent horizontal spill.
- Movement sensors and timers could be used to minimise the 'lit time'.

The Outdoor Lighting Report (MMA Lighting Consultancy Ltd., September 2023) shows that bollard lighting is to be used in the south-east corner of the site where the proposed road is in close proximity to vegetation surrounding Jacks Lane. Bollards are not recommended within the Guidance Note 8 Bats and artificial lighting (The Institute of Lighting Professionals, 2023) so to ensure this corridor is maintained as being suitable for use by nocturnal animals such as bats, it is recommended that these are 'Dark Sky' Accredited bollards or other lighting that is sensitive to bats.

Although eDNA surveys undertaken for Great Crested Newt (GCN) came back negative, given not all ponds within 500m were surveyed and the site lies within an Amber Risk Zone for the GCN District Level Licensing ([GCN Risk Zones \(Essex\) | Natural England Open Data Geoportal \(arcgis.com\)](#)) and suitable habitats are present at the boundary of the site, it is considered possible that GCN will be present. GCN should therefore be considered as part of this planning application, however, due to the habitats to be impacted, it may be possible to manage potential impacts upon GCN using a precautionary method statement for GCN for the construction stage, including storage of materials. This precautionary method statement should be secured by a condition of any consent.

In addition, we note that the development site is situated within the 10.4km evidenced Zone of Influence for recreational impacts at Hatfield Forest Site of Special Scientific Interest (SSSI)/National Nature Reserve (NNR) as shown on MAGIC map (www.magic.gov.uk). Therefore, Natural England's letter to Uttlesford DC relating to Strategic Access Management and Monitoring Strategy (SAMM) – Hatfield Forest Mitigation Strategy (28 June 2021) should be followed to ensure that impacts are minimised to this site from new residential development.

As a first step towards a comprehensive mitigation package, the visitor management measures required within Hatfield Forest SSSI / NNR have been finalised in a Hatfield Forest Mitigation Strategy. Natural England are now working with the LPA to consider what level of developer contribution towards a package of funded Strategic Access Management Measures (SAMMs) at Hatfield Forest is



appropriate for all residential development within the evidenced Zone of Influence. Natural England's advice is that during this interim period before a co-ordinated strategic solution has been established by all authorities, housing projects of 50 units or greater should provide a proportionate mitigation contribution to be agreed with the National Trust.

As this application is less than 50 or more units, Natural England do not, at this time, consider that is necessary for the LPA to secure a developer contribution towards a package of funded Strategic Access Management Measures (SAMMs) at Hatfield Forest.

We support the proposed reasonable biodiversity enhancement measures including installation of bird and bat boxes, provision of a log pile, the provision of permeable fencing for Hedgehog and creation of meadow grass margins which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 174d and 180d of the National Planning Policy Framework 2023. These reasonable enhancement measures should be outlined alongside the compensatory hedgerow planting within a Biodiversity Compensation and Enhancement Strategy secured by a condition of any consent.

It is noted that a number of potential roosting features for bats were found along Jacks Lane immediately south-east of the site. It is not clear if the proposed lighting will impact upon these features. It is therefore considered appropriate to provide at least an additional six bat boxes on top of the enhancement measures, this could be integrated bat boxes on the proposed dwellings or bat boxes on suitable trees.

It is also recommended that a Landscape and Ecological Management Plan (LEMP) is submitted to outline how retained and proposed habitats will be managed to benefit biodiversity. This LEMP should be secured by a condition of any consent.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Ecology Solutions, October 2021), Ecology Update and Walkover Survey (Ecology Solutions, September 2022), Bat Survey Report (Ecology Solutions, November 2021) and Lighting Impact Assessment Rev R3 (MMA Lighting Consultancy Ltd., December 2023) 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).

2. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

"A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.*
- b) Identification of "biodiversity protection zones".*
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) to include the retained and adjacent Priority habitats.*
- d) The location and timing of sensitive works to avoid harm to biodiversity features.*
- e) The times during construction when specialist ecologists need to be present on site to oversee works.*
- f) Responsible persons and lines of communication.*
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*
- h) Use of protective fences, exclusion barriers and warning signs.*

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

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).

3. PRIOR TO COMMENCEMENT: REPTILE MITIGATION STRATEGY

"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.

- a) Purpose and conservation objectives for the proposed works.*
- b) Review of site potential and constraints.*



- c) *Detailed design(s) and/or working method(s) to achieve stated objectives.*
- d) *Extent and location/area of proposed works on appropriate scale maps and plans.*
- e) *Type and source of materials to be used where appropriate, e.g. native species of local provenance.*
- f) *Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.*
- g) *Persons responsible for implementing the works.*
- h) *Details for monitoring and remedial measures.*
- i) *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)

4. PRIOR TO COMMENCEMENT: GREAT CRESTED NEWT METHOD STATEMENT

"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).

5. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY COMPENSATION AND ENHANCEMENT STRATEGY

"A Biodiversity Compensation and Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Compensation and Enhancement Strategy shall include the following:

- a) *Purpose and conservation objectives for the proposed compensation and enhancement measures, to include at least six bat boxes as compensation;*
- b) *detailed designs or product descriptions to achieve stated objectives;*
- c) *locations, orientations, and heights of proposed compensation and enhancement measures (where applicable) by appropriate maps and plans;*
- d) *timetable for implementation demonstrating that works are aligned with the proposed phasing of development;*
- e) *persons responsible for implementing the compensation and enhancement measures;*
- f) *details of initial aftercare and long-term maintenance (where relevant).*



The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.”

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

6. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

“A lighting design scheme for biodiversity covering the residential development 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)

7. PRIOR TO OCCUPATION: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

“A 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:

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

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer 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)

Please contact us with any queries.

Yours sincerely,

Ella Gibbs ACIEEM BSc (Hons)

Senior Ecological Consultant



Place Services provide ecological advice on behalf of Uttlesford District Council

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

Appendix E – Applicant Email to PINS - Dated: 02nd January 2024



Jarrold Spencer [redacted]

S62A/2023/0027 Land At Warish Hall Farm North Of Jacks Lane, Smiths Green lane, TAKELEY

Jarrold Spencer [redacted]

2 January 2024 at 15:44

To: Section 62A Applications <section62a@planninginspectorate.gov.uk>

Cc: Steven Hatton [redacted], David Poole [redacted] >

Good Afternoon Leanne,

Many thanks for your email.

I can confirm that we are happy to agree to the extension of time to 28 March 2024.

We are looking at your other requests and will revert back shortly.

On separate note, are you able to confirm who the appointed person is for this case, is it Inspector Hunt or Inspector Kean or another Inspector?

Many thanks,

Jarrold Spencer
Planner
Weston Homes Plc

[redacted]
[redacted]
[redacted]
[redacted]



[Quoted text hidden]