



The Planning Inspectorate

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

ISSUES REPORT

Application Reference No: S62A/2023/0027

Applicant: Weston Homes PLC.

Local Planning Authority: Uttlesford District Council.

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

Site address: Warish Hall Farm, Smiths Green Lane, Takeley, Essex CM22 6NZ.

Report prepared by: SRG Baird BA (Hons) MRTPI.

Hearing to be held on: 13 February 2024.

Preliminary Matters

1. The application was made under Section 62A of the Town and Country Planning Act 1990, which allows for applications to be made directly to the Planning Inspectorate where a local planning authority (lpa) has been designated by the Secretary of State. Uttlesford District Council (UDC) has been designated for major applications since February 2022.
2. As a major application, a Hearing will be held on Tuesday 13 February 2024 at Uttlesford District Council, London Road, Saffron Walden, Essex CB11 4ER. The Hearing will be conducted in accordance with The Town and Country Planning (Section 62A Applications) (Hearings) Rules 2013.
3. The application was submitted on the 17 October 2023 and validated on the 31 October 2023. Notifications were sent to consultees and residents on the 3 November 2023 and allowed for responses by 8 December 2023. An extension of time was granted to the lpa. Further responses were received from the applicant, Essex County Council (ECC) and the lpa in reply to the Inspector's queries. All responses have been posted on the gov.uk website¹.
4. Consultation responses were received from the following:

Cadent Gas Limited	ECC Minerals & Waste
Essex Police	Gigaclear Limited
Health & Safety Executive	Hertfordshire & West Essex ICB
MAG Highways	MAG Safeguarding
National Air Traffic Service	UK Power Networks
UDC	UDC Environmental Health
ECC Highways	ECC Infrastructure Planning Officer
ECC LLFA	ECC Place Services Historic Environment

¹ [Section 62A Planning Application: S62A/2023/0027 Warish Hall Farm, Smiths Green Lane, Takeley, Essex, CM22 6NZ - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118111/S62A-2023-0027-Warish-Hall-Farm-Smiths-Green-Lane-Takeley-Essex-CM22-6NZ-Section-62A-Application-2023-10-17.pdf)

Natural England
National Highways
Thames Water
Historic England

ECC Historic Buildings & Conservation
Affinity Water
Takeley Parish Council

5. Thirty-five responses were received from residents.
6. The Planning Inspectorate issued a screening opinion under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 on 21 November 2023 confirming that the proposal would not be likely to have significant effects on the environment and that an Environmental Impact Assessment is not required.
7. The application is accompanied by a draft S106 Unilateral Undertaking (UU) which provides for affordable housing, first home housing, highway works, and financial contributions for public libraries, secondary education and monitoring.

Planning Policy

8. Decisions on planning applications are determined in accordance with the development plan unless material planning considerations indicate otherwise. The relevant part of the Development Plan for Uttlesford District is the Uttlesford Local Plan 2005 (ULP). The Planning Officer's report² to the Planning Committee, lists a suite of policies and other local guidance relevant to this application.
9. The site lies outside of the settlement boundary of Takeley, which broadly follows Jacks Lane in this area before extending further north-east where a large housing development and associated infrastructure and services have been constructed as part of Priors Green. ULP Policy S3 identifies Takeley as a Key Rural Settlement. The site does not lie within either the Green Belt or other landscape designation. For the purposes of applying planning policy, ULP Policy S7 defines land outside settlement limits and the Green Belt as countryside. The site falls within the Countryside Protection Zone referred to in ULP Policy S8. The site lies adjacent to the recently designated Smiths Green Conservation Area and several designated and non-designated heritage assets. ULP Policy ENV2 indicates that development proposals that adversely affect the setting a LB will not be permitted.
10. A new Uttlesford Local Plan is being prepared and is at the Preferred Option Consultation Stage. Takeley is identified as a Local Rural Centre with an allocation of 1,636 dwellings. Local Rural Centres are defined as, small towns or large villages with a level of facilities and services and local employment to provide the next best opportunities for sustainable development outside of the Key Settlements. The application site is shown on Figure 6.4 - Proposed Strategic Allocations at Takeley as an Indicative Development Plot.
11. The lpa submit that as the emerging local plan is at an early stage of preparation it attracts negligible weight in the determination of this application. The applicant, acknowledging that the emerging plan can

² [Section 62A Planning Application: S62A/2023/0027 Warish Hall Farm, Smiths Green Lane, Takeley, Essex, CM22 6NZ - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/1155552/Section_62A_Planning_Application_S62A_2023_0027_Warish_Hall_Farm_Smiths_Green_Lane_Takeley_Essex_CM22_6NZ.pdf)

- only attract limited weight, identifies the indicative allocation as a material consideration.
12. The National Planning Policy Framework 2023 (Framework) contains relevant national planning policies and is an important material consideration. The central aim of the Framework is to achieve sustainable development with a presumption in favour of sustainable development.
 13. For decision making, the presumption means, approving development proposals that accord with an up-to-date development plan without delay. Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, which for applications for housing is where the lpa cannot show a 5-year supply deliverable housing land, planning permission should be granted unless: (a). the application of policies in the Framework that protect areas or assets of particular importance³ provides a clear reason for refusing the development proposed; or (b). any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (Framework paragraph 11d). Planning Practice Guidance (PPG) supports the Framework.
 14. In December 2023 revisions to the Framework changed the way a lpa calculates the availability of a 5-year housing land supply (HLS). Currently, UDC has a 4.5-year HLS and acknowledges that the presumption set out in Framework paragraph 11d is engaged when determining this application⁴.
 15. Material considerations include, a decision issued in August 2023 refusing planning permission for a similar application on this site (S62A/2023/0016), a decision issued in December 2023 refusing planning permission for 96 dwelling on land at Bull Field, Takeley (S63A/2023/0019) and a decision issued in August 2022 dismissing an appeal for 190 dwellings on land at Warish Hall Farm, Smiths Green, Takeley (APP/C1570/W/22/3291524).
 16. The application the subject of S62A/2023/0016 was refused for 2 reasons,
 1. It has not been adequately demonstrated that lighting and loss of vegetation, particularly in relation to access works and off-site proposals to improve the restricted byway Takeley 48/25 would not result in unacceptable harm to the established character and appearance of the surrounding area and to the significance of Smiths Green Lane (Warish Hall Road), a protected lane and non-designated heritage asset. This is contrary to policies S7, ENV9 and GEN2 of the Uttlesford Local Plan and paragraphs 130 c), 185 c) and 203 of the National Planning Policy Framework⁵.

³ Sites designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets.

⁴ [Uttlesford District Council - Response on NPPF and HDT Redacted.pdf \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/115444/uttl-ford-district-council-response-to-nppf-and-hdt-redacted.pdf)

⁵ In December 2023 Framework now paragraphs 135c, 191c and 209.

2. It has not been adequately demonstrated that safe and suitable access to and from the site for pedestrians and cyclists could be achieved which meets highway design standards whilst responding to local character and biodiversity considerations, contrary to Uttlesford Local Plan policy GEN1 and paragraphs 92, 110 and 112 of the National Planning Policy Framework⁶.
17. The application was reported to the Planning Committee⁷ and the matters the Committee wished to be taken into consideration were forwarded to the Planning Inspectorate on 14 December 2023⁸.

The Site and Surroundings

18. Comprising some 2.1ha, the site includes an undeveloped field to the north of Takeley, between Smiths Green Lane⁹ and Jacks Lane. The site is bounded by vegetation to all sides aside from a small field entrance off Smiths Green Lane. The narrow grass verge on the eastern side and the wider grass verge on the western side of Smiths Green Lane are designated as a Village Green.
19. A Public Right of Way (PRoW), Takeley 25, (a restricted Byway) runs along the northern/eastern boundary of the site linking to Jacks Lane. The byway continues eastwards to Burgattes Road and beyond.
20. A row of predominately mid to late 20th century dwellings lie to the south of the site along the south side of Jacks Lane, with more sporadic and historic dwellings set within generous plots located towards the junction and on the east side of Smiths Green. To the east, there is the extensive Priors Green urban extension, a primary school and a local centre. Other shops and services are located along the B1256 Dunmow Road.

The Proposal

21. The application proposes the erection of 40 detached, semi-detached and terraced dwellings, open space with a play area and landscaping. Of the 40 units, 16 would be provided as Affordable Homes, including First Homes. Vehicular access with visibility splays of 2.4 by 43m in either direction would be from Smiths Green Lane at the existing field entrance. Access over the village green would require a separate application to the Secretary of State under S16 of the Commons Act.
22. The layout provides for a pedestrian link from the eastern side of the site to connect to the PRoW, which links to the Jacks Lane Byway towards the Priors Green Local Centre, primary school and Burgattes Road. The Byway continues to the east. Unlike the previous application, the PRoW and Byway are now included within the red line application area.

⁶ In December 2023 Framework now paragraphs 96, 114 and 115.

⁷ [Uttlesford District Council 1. Cttee Report checked.pdf \(publishing.service.gov.uk\)](#)

⁸ [Uttlesford District Council 0 Redacted.pdf \(publishing.service.gov.uk\)](#)

⁹ Also known as Warish Hall Road.

Main Issues

23. These are:
- a. whether the location of the development accords with the development strategy in the development plan,
 - b. whether the proposed development is accessible and would be acceptable in terms of highway safety and biodiversity,
 - c. the effect on the character and appearance of the area,
 - d. the effect on heritage assets,
 - e. the effect on biodiversity,
 - f. whether adequate provision would be secured to provide for additional facilities, including transport, education, community facilities, and open space arising from the development,
 - g. whether having regard to the supply of housing and applying the tilted balance set out in Framework paragraph 11(d)(ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole – the planning balance.

Issue A – Location & Principle of Development

24. ULP Policy S3 identifies Takeley as a Key Rural Settlement. Takeley has a range of facilities and services commensurate to its status in the settlement hierarchy. The site is located outside the development limits of Takeley where ULP Policy S7 -The Countryside restricts new development. The site also lies within the Countryside Protection Zone (CPZ) defined by ULP Policy S8 – Countryside Protection Zone, which controls development around Stansted Airport. Development is restricted if it would promote coalescence between the airport and existing development or would adversely affect the open characteristics of the area.
25. In the decision on application S62A/2023/0016, the Inspector concluded that the scale of development and location of the site would be broadly compatible with the Key Rural Settlement status of Takeley as defined in ULP Policy S3, having particular regard to its proximity to the existing settlement and local services. Regarding the CPZ, the Inspector was satisfied that the proposed development would not conflict with part a) of ULP Policy S8 in terms of avoiding coalescence between Stansted Airport and existing development in the surrounding countryside.
26. Under the heading of “Principle of Development” the Planning Officer’s (PO) report concludes that the development would not meet the requirements of ULP Policy S7.
27. Under the heading of “Suitability and Location”, the PO’s report indicates that although outside the development limits of Takeley, the new built form would be located towards the northern edge and provide a logical

relationship with the existing settlement. Thus, given the location and the proximity to local services and facilities, the PO concludes the site is in an accessible and sustainable location.

28. Under the heading of "Countryside Protection Zone", the PO's report refers to the agricultural use of the land and the boundary planting, which contributes to the character and appearance of the countryside around the airport and the Countryside Protection Zone as a whole. The PO notes that the site adjoins development in Takeley and the A120 would be a barrier between the development and Stansted Airport.
29. Further to these comments and the Inspector's conclusions, in relation to the suitability of the location, the PO concludes that the proposal would not conflict with ULP Policy S8 and having regard to the conclusions of the Landscape and Visual Appraisal, and the sustainable accessible location of the site the proposal would be acceptable in principle.
30. Notwithstanding the PO's conclusions, in relation to suitability of and the principle of the development, the Planning Committee (PC) concluded that ULP Policy S7 is broadly consistent with Framework paragraphs 135 and 180b and should be given moderate weight. The dwellings and vehicular access would be apparent from Smiths Green 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 development would introduce an urban form of development that would be unsympathetic to the local character and landscape setting. The urbanising effect of the proposal would adversely affect the intrinsic character of the countryside, in conflict with ULP Policy S7 and ULP GEN2 - Design.
31. Regarding the CPZ, the PC commented that the site contributes positively to the open characteristics of the CPZ. The introduction of built form would reduce the open characteristics of the countryside around the airport and would adversely affect the open characteristics of the CPZ and conflict with ULP Policy S8.
32. Given recent housebuilding in the area, Takeley Parish Council and interested persons query the need for additional housing. There is concern that Takeley has grown too big and has insufficient infrastructure and services, including health facilities and schools, to support the development. Concerns are raised regarding a piecemeal approach to development and the precedent for further development.

Issue B – Highway Safety & Accessibility.

33. ULP Policy GEN 1 – Access, requires developments to be designed so that they do not have unacceptable impacts upon the existing road network, and road safety, take account of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired and encourage movement by means other than a vehicle.
34. Framework paragraph 114 says that when assessing development applications, regard should be had to its location, ensuring that: appropriate opportunities to promote sustainable transport modes can be or have been taken up; safe and suitable access can be achieved for all

- users; the design of streets and parking areas reflects current national guidance and any significant impacts from the development on the transport network in terms of capacity and congestion or on highway safety, can be cost effectively mitigated to an acceptable degree.
35. Framework paragraph 115 says that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Decisions should ensure that development: gives priority first to pedestrians and cyclists and as far as possible facilitates access to high quality public transport; addresses the needs of those with reduced mobility; creates developments that are safe and secure; allows for access for deliveries and emergency vehicles and allows for the charging of electric vehicles and ultra-low emission vehicles.
 36. A single vehicular access is proposed onto Smiths Green Lane with visibility splays of 2.4 by 43m in either direction across the verge of which is part of a designated Village Green. Currently, there are no footways or lighting along Smiths Green Lane, and none are proposed. Pedestrian access is proposed onto the adjacent PRow, which links to the Jacks Lane Byway, Burgattes Road and beyond and to the Priors Green Local Centre and a Primary School. Unlike the previous application, the footway link is included within the application site. The draft S106 UU provides for the payment of a Sustainable Transport Contribution towards measures to enhance sustainable transport.
 37. In the S62A/2023/0016 decision, the Inspector noted that ECC Highways did not object to the access, the internal road layout or parking provision subject to imposition of several conditions. The Transport Assessment indicates that there is sufficient capacity on the local highway network for the expected traffic movements, and National Highways have not raised objections. The Inspector concluded that there not be a severe cumulative impact on the road network.
 38. Regarding the current application, ECC Highway Authority have not raised objections subject to a range of conditions. A sustainable transport contribution is sought to fund improvements to bus services or infrastructure and/or the implementation of a cycle route between Takeley and Stansted Airport.
 39. In the S62A/2023/0016 decision, the Inspector concluded that it had not be adequately demonstrated that safe and suitable access to and from the site for non-motorised users could be achieved whilst responding to local character and biodiversity considerations. This was a particular reference to the use and enhancement of the PRow and Byway. Since then, the applicant and ECC Highways have undertaken additional work, with the applicant submitting a Lighting Impact Assessment Rev R3¹⁰.
 40. EEC Highways confirms that the proposed lighting scheme for the restricted Byway is acceptable and suggests a planning condition to ensure that the route is appropriately surfaced to provide for regular all-weather use by pedestrians and cyclists. ECC Place Services – Ecology

¹⁰ [20231205 Combined MMA Lighting Report Redacted.pdf \(publishing.service.gov.uk\)](#)

confirms that the Lighting Impact Assessment Rev R3 shows a reduced impact of proposed lighting on Jacks Lane and is acceptable in relation to the impacts to nocturnal animals.

41. Takeley Parish Council and interested parties raise concerns relating to, the effects of construction and operational traffic on Smiths Green Lane and the wider road network, the accessibility of the site and the sustainability of the locality including the availability of public transport. Reference is made to the status of Jacks Lane as a Restricted Byway and the use that can be made of it by cyclists. National Highways have not raised any objections in relation to effects on the A120.

Issue C – Character and Appearance

42. The site is in agricultural use and located in an area designated in the ULP to remain open. The site does not lie within a nationally or locally designated landscape. The site is located outside the settlement boundary of Takeley (ULP Policy S3) in the open countryside, which the ULP seeks to protect for its own sake and limit development to that which needs to take place there or is appropriate to a rural area. Development will only be permitted if its appearance protects or enhances local character (ULP Policy S7). Framework paragraph 180 requires that planning decisions should contribute to and enhance the local environment by recognising the intrinsic character and beauty of the countryside.
43. The Inspector in S62A/2023/0016 concluded that the design and layout of the development would broadly meet the Framework's aims for achieving well-designed places and there was no significant conflict with ULP Policy S8 in relation to the openness of the CPZ. The PO's report under the heading of Countryside Impact concluded, given that the application remains fundamentally the same, and the Inspector's comments, that no further concerns are raised on visual impact and the effect on the wider landscape character area, as a result of the built form. The PO concludes that the design, scale, form and layout of the dwellings are acceptable and in general accordance with ULP Policy GEN2.
44. In term of design, the PO'S report notes the following. The density of the development reflects the existing patterns of development. The layout would provide well defined streets and active frontages. The houses would have generous outdoor amenity space in the form of rear gardens, designed to ensure they are not overlooked. The scale of the dwellings would appropriately reflect the context of the area and the surrounding buildings, whilst providing adequate reference to the local built form, which comprises a mix of single and 2-storey dwellings.
45. The PO notes that the proposed development draws upon the characteristics of the local vernacular to reinforce the sense of place established by the layout of the development. The appearance of the proposed residential units has been informed by the development of the different character areas. The proposed choice of materials would give a good variety of treatments across the site, that would enhance the setting of the development.
46. Notwithstanding the PO's assessment, the PC concludes that the dwellings and vehicular access would be apparent from Smiths Green Lane (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 development would introduce an urban form of development that would be unsympathetic to the local character and landscape setting. The development would adversely affect the intrinsic character of the countryside and conflict with ULP Policies S7 and GEN2.

47. Takeley Parish Council and interested persons raise concerns about design and layout, and the appearance of the development from Smiths Green Lane and Jacks Lane.

Issue D – Heritage Assets

48. Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision-maker to pay special regard to the desirability of preserving Listed Buildings (LB), their settings, and any architectural features they may possess. ULP Policy ENV2 indicates that development that adversely affect the setting of a LBs will not be permitted. ULP Policy ENV9 indicates that proposals likely to harm protected lanes will not be permitted unless the need for the development outweighs the historic significance of the site.
49. Framework paragraph 195 identifies that Heritage Assets (HA) are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Whether a proposal results in substantial or less than substantial harm to the significance of a HA, Framework paragraph 205 requires the decision-maker to attach great weight to its conservation. Framework paragraph 208 says that where a proposal would lead to less than substantial harm to the significance of a designated HA, this harm is to be weighed against the public benefits of the proposal. Framework paragraph 209 says that effect of an application on the significance of a non-designated heritage asset should be considered in determining the application. A balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
50. Historic England (HE) suggest that the intensity of residential development would impact on the tranquil nature of and the ability to understand the historic pattern of settlement and relationship between the different HAs. Although these relationships have been partially eroded by subsequent changes, they are still recognisable and are an important part of the area's significance. HE concludes that the harm would be considerable, albeit less than substantial and there are no benefits that would outweigh the erosion of rural character and loss of legibility of the historic settlement pattern.
51. ECC Place Services - Historic Environment identify that the application has the potential to adversely impact on the setting and significance of several designated and non-designated HAs. The designated HAs are, the Grade 2 Listed Hollow Elm Cottage, the Grade 2 Listed Cheerups Cottage, and the Smiths Green CA. The non-designated HA is the Protected Lane. Previous responses from ECC identified a low level of less than substantial harm to Hollow Elm Cottage arising from development within its setting. The Inspector in the S62A/2023/0016 decision found no harm to the

- significance of Hollow Elm Cottage and ECC does not repeat its earlier comments. ECC concludes that the proposal would cause a low level of less than substantial harm to the significance of the CA from development within its setting. No comment is made regarding the effect of the application on the Protected Lane.
52. The site lies within an area of archaeological interest. The submitted desk-based assessment highlights moderate potential for encountering archaeological remains of Bronze Age, Iron Age, Roman, and Saxon date and a high potential for Medieval features. Trial trenching is proposed to identify the extent and depth of archaeological deposits.
 53. UDC's says that the development has the potential to adversely impact the setting of a designated HA, the Smiths Green Conservation Area and a non-designated HA, the Protected Lane. The development would fail to preserve the special interest of Hollow Elm Cottage, a Grade 2 LB. The harm would be at the low end of the spectrum of less than substantial harm (Framework paragraph 208).
 54. Here, the decision-maker should consider the impact the proposal would have on the significance of the above HAs and place importance upon the preservation of these assets (Framework paragraphs 205 and 209). Of particular concern to the PC is the Protected Lane and the users experience and its historic significance in its open, pastoral setting.
 55. Takeley Parish Council and interested persons raise concerns about the effect of the application on the Protected Lane, the various HAs and the setting of the village.

Issue E - Biodiversity

56. ULP Policy GEN2 applies a general requirement that development safeguards important environmental features. ULP Policy GEN7 indicates that development that would have a harmful effect on biodiversity will not be permitted unless the need for the development outweighs the importance of the feature to nature conservation. ULP Policy ENV7 relates to the protection of designated sites. ULP Policy ENV8 relates to other landscape elements of importance for nature conservation.
57. Framework paragraph 180(d) says that decisions should minimise impacts on and provide net gains for biodiversity. Framework paragraph 186 says that planning permission should be refused if significant harm to biodiversity cannot be avoided, adequately mitigated, or, as a last resort, compensated for.
58. The application site is not the subject of a statutory nature conservation designation. Natural England (NE) considers the development would not have significant adverse impacts on designated nature conservation sites or landscapes. The site is within the Zone of Influence of the Hatfield Forest Site of Special Scientific Interest/National Nature Reserve. NE, given the scale of the proposed development, does not seek a contribution towards the Strategic Access Management Measures at Hatfield Forest.
59. ECC - Ecology is satisfied that there is sufficient ecological information to determine the application. ECC recommends that 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) are secured by condition. Imposition and implementation of the suggested conditions would demonstrate compliance with S40 of the Natural Environment and Rural Communities Act 2006.

60. Takeley Parish Council and interested persons highlight the value of the site to biodiversity.

Issue F – Provision of Infrastructure

61. ULP Policy GEN6 says that development will not be permitted unless it makes provision for community facilities and other infrastructure made necessary by a development. Interested persons have raised concerns about the demands the development would place on already inadequate community services and facilities.
62. UDC and ECC request that if planning permission is granted the permission should be subject to planning conditions and the completion of a S106 Agreement/Undertaking relating to:

ECC

- a. a contribution of £197,706 for the creation of additional places and/or a new facility for secondary education,
- b. a contribution of £36,837 for secondary school transport,
- c. since there is no current safe walking route to the nearest primary school, a contribution of £246,172.22 is sought for primary school transport,
- d. a contribution of £3,112 to improve, enhance the facilities and services at Great Dunmow library and to expand the reach of mobile library and outreach services,
- e. a monitoring fee of £700 per obligation,
- f. a sustainable transport contribution of £112,000 towards measures to enhance sustainable transport including new and expanded bus services serving the development and cycling infrastructure to/from Stansted Airport and Takeley,
- g. highway works relating to the improvement of the Jacks Lane Byway,
- h. the submission of an Employment and Skills Plan to maximise local labour and skills opportunities,

UDC

- i. the provision of 40% affordable housing,
- j. a First Homes Contribution,

- k. the provision of 5% wheelchair accessible and adaptable dwellings (M4(3) – Building Regulations 2010,
 - l. the provision and long-term maintenance of public open space and a financial contribution towards sustainable transport measures,
 - m. a monitoring fee.
63. The applicant has submitted a draft S106 UU which is currently under discussion between the parties. Either a draft or completed certified copy of the UU should be provided before or at the Hearing. Discussion of the contents of the S106 UU will take place at the Hearing on a no prejudice basis.
64. ECC Highways have suggested conditions relating to various matters, which the Inspector has advised are not appropriate and if these matters are required to be addressed, they should be reflected in the S106 UU.
65. Not reflected in the draft S106 Agreement is a request from the Hertfordshire and West Essex Integrated Care Board for a contribution of £51,680 to mitigate the primary health care impacts from the development. The Inspector will expect to be advised by the applicant whether this request is to be reflected in the S106 UU and if not why.
66. It is unclear from the consultation response of the ECC Infrastructure Planning Officer whether a financial contribution is required to support primary education places. The Inspector will be seeking clarification.
67. The Inspector will seek clarification from ECC as to whether the financial contribution for primary school transport is required given the conclusion by ECC Highways that the proposed works to enhance the Byway are acceptable.

Other Matters

Flood Risk and Drainage

68. The submitted Flood Risk Assessment concludes that the site is at a low risk of flooding and the proposal would not increase flood risk onsite or elsewhere. The proposed SuDS strategy, including the use of permeable surfaces, would effectively manage the surface water run-off associated with the roof, roads and other impermeable areas, by using infiltration methods. ECC who are the Lead Local Flooding Authority have reviewed the submitted details and do not object to the development subject to appropriate conditions.

Air Quality and Contamination

69. An air quality assessment has been submitted as part of the application. UDC's Environmental Health Officer (EHO) raises no objection to the proposed development subject to the imposition of conditions. ULP Policy ENV14 states that any proposal on contaminated land needs to take proper account of the contamination. A Phase 1 Mitigation desk study has been submitted with the application. The study does not recommend any further investigations in relation to contaminated land. The EHO advises that having regard to the former agricultural land use, the scale of the development and in view of the contamination-sensitive end, that any

contamination risks that may be present on site must be identified, assessed and where necessary remediated to a suitable standard and recommends a condition.

Noise

70. The consultation response from the EHO refers to the proximity of the site to the A120 and Stansted Airport indicating these are likely to be the dominate noise source that will impact on future occupiers of the proposed development and suggest conditions.

Agricultural Land

71. Policy ENV5 - Protection of Agricultural Land indicates that development of the best and most versatile (B&MV) agricultural land will only be permitted where opportunities have been assessed for accommodating development on previously developed sites or within existing development limits. Where development of agricultural land is required, developers should seek to use areas of poorer quality except where other sustainability considerations suggest otherwise. The site is assessed as Grade 2 and is therefore classified as B&MV land, and the loss would be some 2.3ha.
72. The Inspector noted in S62A/2023/0016 decision, that the land is currently laid to grass and given its contained nature and awkward shape it is likely to be less suitable and accessible for large farm machinery. The inspector concluded that the site represents a small proportion of the B&MV land in the district as a whole and its loss would not be significant. Moreover, the loss of agricultural land was not a main issue in the much larger appeal scheme (APP/C1570/W/22/3291524).

Issue G - Planning Balance

73. Applications for planning permission are to be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions. Framework paragraph 11d indicates where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, which includes applications for housing where the lpa cannot show a 5-year supply of deliverable housing land, permission should be granted unless: (i). Framework policies that protect areas or assets of particular importance (habitat sites, SSSIs and designated HAs) provide a clear reason for refusing the development, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against Framework policies read as a whole. This exercise is commonly referred to as the tilted balance.
74. The relevant part of the development plan is, the Uttlesford Local Plan 2005. (ULP). Whilst there are a range of ULP policies relevant to determining this application, the Inspector will expect the applicant and UDC to agree which policies are the most relevant for the determination of this application.
75. Benefits arising from a development proposal are capable of being a material consideration when undertaking the Planning Balance. Taking a cue from the Framework, the Planning Statement identifies the benefits of this scheme under the headings of Economic, Social and Environmental.

76. Benefits would include:
- a. the provision of 40 dwellings – moderate weight,
 - b. the provision of 16 affordable dwellings – significant weight,
 - c. biodiversity enhancements – neutral weight,
 - d. electric vehicle charge points – neutral weight,
 - e. construction related benefits – neutral weight
 - f. publicly accessible open space and play area – moderate weight,
 - g. employment during construction – moderate weight,
 - h. increased local spending – limited weight.

Conditions

77. The Ipa and other consultees have submitted details of suggested conditions that will be discussed at the Hearing. Any discussion on their merits will be on a without prejudice basis, and they will be assessed as to whether they meet the tests for conditions as set out in Framework paragraph 56.

Site Visit

78. Before the Hearing, the Inspector will make an unaccompanied visit to the application site and its surroundings. At the Hearing the Inspector will consider whether a further visit to the site will be necessary and whether that visit will be accompanied or unaccompanied.

George Baird

INSPECTOR