

KEEP CLAVERING RURAL

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12th February 2024

Dear Sir,

PINS S62A Planning Application ref: S62A/2023/0030
Land west of The Cricketers, Clatterbury Lane, Clavering, Essex
Outline application with all matters reserved, except access for up to 28 dwellings
(Class C3) including public open space, sustainable drainage systems, landscaping
and associated infrastructure

Keep Clavering Rural ("KCR") requests that the Planning Inspectorate ("PINS") treats this letter as its objection to the above planning application.

As a preliminary point, it is KCR's view that this is not only a major development, but one which raises issues which cannot be clearly understood from the written representations. As a result, a Hearing would be the appropriate procedure for dealing with the application. The reasons for this are as follows:

A. The landscape implications of the proposed development are not as straightforward as the applicant maintains and evidence contrary to that put forward by the Applicant may well generate questions by the Inspector.

B. Local knowledge will be valuable to put into perspective the way in which the Funstons Business Centre (opposite the proposed site access) operates from the highway safety point of view and it is likely the Inspector will want to clarify aspects of this.

C. The application site sits close to heritage assets, including a Conservation Area, a listed building and a non-designated heritage asset. While the applicant maintains these will not be harmed by the proposed development, the position is far from clear, and it is likely the Inspector will have questions on the conflicting views submitted to him in the documentation.

To facilitate easier reading of our objections letter, we have provided a short executive summary. This is then followed by a more detailed explanation of the issues raised in the summary.

Our submissions on landscape and heritage are supported by professional reports (Appendices 1 and 2) that differ in some of their conclusions from those of the Applicant.

EXECUTIVE SUMMARY

This section summarises KCR's principal objections which are then expanded in the remaining sections of this letter (using the same numbering in each).

1. This is an **abuse of process**. There have already been three quite different previous planning proposals on the application site, each refused by Uttlesford District Council ("**UDC**") for the same reasons with one of them (for 31 dwellings) also turned down at Appeal. The current application is little different from that in the Appeal application and will simply waste public time and money.
2. The proposed development will seriously **harm the character of this part of the village** because:
 - a. The proposed development will have a **harmful impact on the landscape and be visually intrusive** from the road and from footpath viewpoints, particularly after leaf fall.
 - b. The application site **brings the countryside right up to the edge of the existing village**. Its development for housing will effectively push the countryside further away from the original village.
 - c. This is a typical example of the kind of **urban creep** into the countryside that, if unchecked, will eventually urbanise a rural village.
 - d. The proposed estate-type design of the new dwellings **conflicts with the generally linear pattern of housing in the village** and adds further to the limited urban element that was introduced by the brownfield development of Eldridge Close on the other side of the road.
 - e. The north of the village is simply the **wrong place for clustered housing** which, in Clavering, is located mainly around the Stortford Road area.
3. The application site lies **outside the village development limits**.
4. While the NPPF recognises increased use of the car in a rural environment, this **does not justify deliberately locating a development a significant distance from the core village facilities**.
5. The substantial visual harm to the landscape the development will cause **breaches the countryside protection elements of Local Plan Policy S7** that are consistent with the NPPF, to which considerable weight should be attached.
6. The proposed development **conflicts with NPPF requirements** in paragraph 180(b) (recognising the intrinsic beauty of the countryside), 20(d) (conserving and enhancing the landscape) and 135(c) (sympathetic to local character).
7. **Previous Appeals on nearby land in the northern part of the village have been turned down** on grounds of excessive distance from core village facilities and harm to the countryside.
8. The development will have a **harmful effect on nearby heritage assets**.
9. The proposed development **fails all three NPPF tests of sustainability**.
10. The development represents **poor transport and highways practice** because the position of its proposed access point sits on a slow bend with limited visibility resulting in a potential traffic hazard.
11. Clavering has **no public bus service**.
12. UDC have said that **Clavering's 111 new house target** is likely to be reduced when the Regulation 19 version of the draft new Local Plan is published in the spring this year. This reduces the need for larger developments such as that proposed.

Conclusion: The benefits attached to 28 dwellings are outweighed by the harm the proposed development will cause. Whatever might otherwise be the merits of this proposal, it is simply in the wrong place.

MORE SPECIFICALLY:

1. Abuse of process

This site has already been the subject of three previous failed attempts at development.

A scheme for 31 dwellings (UTT/0507/12/OP) was refused by UDC on two important grounds:

(i) The site is an important undeveloped space, maintaining the scattered and sporadic character of the area and its rural appearance. As such it should be protected from urbanising development.

(ii) Despite not having at that time a 5 year housing land supply, the development failed the NPPF requirements because of the environmental harm and the unsustainable nature of the site, being unsuitable for housing with limited access to local services, therefore not encouraging trips by non-vehicular means.

While the environmental harm that would be caused by the development was defined by Local Plan Policy S7, parts of which are non-NPPF compliant, UDC made it clear that the compliant part (protection and enhancement of the countryside) was also relevant.

The Applicant appealed (APP/C1570/A/12/2184181), but the Appeal Inspector concluded, at paragraph 18, that:

“In essence the site is not in a sufficiently sustainable location, and this consideration is of greater moment than issues of housing land supply. Although the relevant policies for the supply of housing are considered not to be up to date, the adverse impacts of approving the scheme would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework, taken as a whole.....Matters on housing land supply carry substantial weight, but they do not override the conflict with the development plan, particularly its Policies GEN1 and S7”

In the light of this clear decision from the Inspector, it is extraordinary that the Applicant should now choose to submit a proposal for almost the same number of houses on a site that has already been declared by the Inspector to be: “not in a sufficiently sustainable location”.

Subsequent schemes (UTT/13/2228/OP)

The Applicant subsequently submitted two amended schemes under the above reference number, the first for 9 dwellings on the front section of the current application site under the Rural Exception Scheme and the second for 9 retirement bungalows. These applications were refused by UDC for exactly the same reason as the scheme for 31 dwellings.

Against the background of UDC planning refusals on 3 previous schemes for exactly the same reasons and with a clear supporting decision from a Planning Inspector, there is no justification for the present application that will simply waste public time and money and should, therefore, be struck down as an abuse of process.

2. Harm to this part of the village

a. Visual intrusiveness of the development and its impact on the landscape

Langley Chalk Upland (H3) Landscape Character Area

The application site lies within the Langley Chalk Upland Landscape Character Area, with a:

“relatively high sensitivity to change”

(as per the Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessment (2006) at page 336).

It is this high sensitivity characteristic that renders examples of urban creep, as exemplified by the proposed development, undesirable in planning terms.

Vegetation screening of the site

Paragraph 6.63 of the Applicant’s Planning Statement refers to the need to fell a Category C1 Ash Tree and remove:

“a small portion of the existing mature hedgerow to accommodate the proposed pedestrian and vehicular accesses”.

We suggest that this is a **significant understatement** since the overriding requirements of highway safety as translated into required widths of vehicular and pedestrian splays, will require very much more than removal of just a: *“small portion”* of the existing mature hedgerow or the: *“minor losses”* suggested by paragraph 6.70 of the Applicant’s Planning Statement.

The result will be a significant opening up of the currently reasonable well screened boundary to public view and with it, a prime view of the new dwellings within the application site.

Indeed, paragraph 4.5 of the Applicant’s Transport Statement maintains that:

“a splay of 40m is achievable in both directions”

These combined splays of 80 metres will occupy almost the entire frontage of the application site and visibility to this extent will only be achieved at the cost of demolishing almost the entirety of the existing mature hedgerow and trees within that hedgerow on that frontage.

Indeed, in order to achieve the proposed footway improvements referred to in paragraphs 4.9 to 4.11 of the Applicant’s Transport Statement, the entirety of the existing mature hedgerow will have to be demolished since, currently, it sits immediately adjacent to the public highway with no room for any footway between the hedge and the highway edge.

Photo example 9 in the Applicant’s Landscape and Visual Impact Assessment illustrates just how visible the new development will be when viewed from Stickling Green Road. The two storey dwellings on the left of the photo are Eldridge Close provide a ‘marker’ for how visible a cluster of 28 houses will appear in a view that, currently, is predominantly rural.

Indeed, it is a pity that, despite submitting the application long after leaf fall, all the photos in the Landscape and Visual Impact Assessment were taken during the summer months when everything was in full leaf. This gives a distorted picture of the true visibility of the new development.

Footpath viewpoints

A group of dwellings on the application site would be visible not just from Stickling Green Road but also from the footpath that follows Stickling Brook/Kingswater. It would intrude into those views and would have an adverse impact upon them. For these reasons it is important that these views are protected.

MBELC's Review of Landscape Aspects of Planning Application

KCR commissioned Michelle Bolger Expert Landscape Consultancy ("MBELC") to carry out a formal Review of the current application.

This Review highlights serious shortcomings in the Applicant's Landscape and Visual Impact Assessment and Design and Access Statement and provides a reasoned and detailed assessment of the landscape harm and harm to the character of the village that will result from the proposed development.

MBELC's Review of Landscape Aspects of Planning Application is attached to this letter as Appendix 1

b. Bringing the countryside right up to the edge of the village

The application site brings a very significant element of the countryside right up to the edge of the built environment of Clavering and this element will be harmed if the application site is developed with housing. The importance of countryside aspects such as this was recognised by the Inspector in the Appeal case in respect of the site adjacent to Monks Cottage, Stickling Green, Clavering (Appeal Ref: APP/C1570/W/15/3031306) where the Inspector said at paragraph 11:

*"From the appellants' historical mapping of the area, it seems the north side of the green has always had three houses separated by two sizeable parcels of land. This is in contrast to the southern side of the green where a number of houses have been built since the second world war. The character and appearance of the north side of the green has consequently retained its rural ambience, enhanced by trees and hedges, whereas the southern side of the green appears almost as a stretch of ribbon development. The houses on the north side of the green are surrounded on the outside by open countryside, whether it be farmland or paddock use. **However, I consider the undeveloped parcels of land contribute to the rural character and appearance by bringing the countryside right up to the edge of the green** (Our emphasis). The proposed development, with the new access track, would unacceptably intrude upon this well established character and appearance which would still be the case even with a well designed landscaping scheme"*

It should be pointed out that the Appeal site in the Monk's Cottage case was hedged off from the open countryside in a similar way to the application site and despite this hedging was still considered as *"bringing the countryside right up to the edge of the green"*.

The application site frames the settlement edge. As such, it is more than just ordinary countryside and performs the valuable function of setting this part of the village in its rural context. Replacing it with the built environment would redefine both the nature and position of the boundary of this part of Clavering. It would present a visually uncomfortable encroachment into the countryside that touches and defines the village at this point. Converting it to housing will effectively push the countryside further away from the original village boundary. As such, the development fails to recognise the countryside's intrinsic rural character.

c. Urban creep

This type of development is a prime example of 'urban creep' in a rural environment. It promotes urbanisation of a country lane and the countryside beyond by extending the existing clustered built form in the immediate area with yet more clustered housing. Once this has begun, it will be hard for UDC to stop in the future on account of the requirement for consistency in planning decision-making. From this perspective, its harmful impact on the village, both now and in the future, is very significant.

d. Conflict with existing housing

While it is accepted that an estate-type development such as this one is, with its acknowledged urban element, has certain similarities to the brownfield development at Eldridge Close diagonally opposite. In this northern part of the village, estate-type layouts do not reflect the general pattern of housing, which is linear. Adding more non-linear development will dilute from the essential characteristics of this part of the village. It will paint an urban picture in a rural environment.

e. Wrong place for clustered housing

The main focus of clustered housing in Clavering has almost always been in the southern part of the village in the Stortford Road area which has created a certain urban feel to parts of that road. Housing in the greater part of the village area is defined by its linear layout that creates more of a rural feel. The most recent developments of more than one house along Wicken Road, Clatterbury Lane and Stortford Road have reflected this linear characteristic by providing a single point of access into the highway that then leads to a line of houses that then follow the line of the highway, this preserving the linear idea, even within the context of a small development.

Sections 2.02 and 4.01 of the Applicant's Design and Access Statement paint a misleading picture of the village layout when it maintains that:

"The village is split into three defined settlement boundaries"

Focussing on this concept creates the impression of there being three villages in one – a village that has three clear and distinct areas. **This is not the case** as anyone travelling through the village will understand. In common with many villages, Clavering is not just a few houses around a village green (although there are houses around Hill Green). Instead, it is spread over a large area with a web of different roads, including Stortford Road, Pelham Road, Middle Street, Lower Way, High Street, Clatterbury Lane, Wicken Road and Stickling Green Road. Stortford Road apart, **the housing layout characteristic of all these roads is linear**. There are no "*defined settlement boundaries*" that show the built form moving from one part of the village to another. That is just a convenient device for arguing that the proposed development is just adding a bit of housing to one of three already discrete areas.

Putting more clustered housing away from the Stortford Road area will not only conflict with the village's generally linear layout, but dilute and eventually alter its linear impact.

In reality, the development is simply building the case for adding to the current brownfield site development on the other side of the road at Eldridge Close in order to replicate the housing clusters in the Stortford Road area. The end result of this exercise in urban creep will simply be to create large housing clusters in the north of the village that will, ultimately, harm its essential linear character, destroy its rural feel and split the village into two.

3. Outside village development limits

The application site sits beyond the village development limits as set out in the Local Plan 2005. While the Applicant will argue that the Local Plan is out of date, nonetheless this does not displace the fact that under S38 of the Planning and Compulsory Purchase Act 2004, planning decisions should still be Local Plan led. Accordingly, and for this reason alone, suitable weight should be placed on the fact that the Applicant's development proposal clearly sits outside the village envelope.

4. NPPF does not justify the distance from village facilities

Our comments below under 'Development not sustainable', demonstrate that it is not appropriate to use the NPPF statements concerning rural car use as justification for locating a development at a significant distance from core village facilities.

Paragraph 2.4 of the Applicant's Planning Statement is wrong when it maintains that Clavering village centre (essentially, the school, the shop and the community centre) are:

"approximately 1.1km distant from the site"

The distance is, in fact 1.6 kilometres (school) and 1.9 kilometres (shop) along a road with a pavement that in parts is too narrow to accommodate either a buggy or a mobility scooter.

Paragraph 6.38 of the Applicant's Planning Statement refers to planning approvals granted on other sites in the northern part of the village. However, there were other factors involved there that are not present with the proposed development, principally infill. Also, they were much smaller developments.

5. Protection of the countryside – Local Plan Policy S7

While the NPPF takes a positive view of development in the countryside it does not override S38 of the Planning and Compulsory Purchase Act 2004. Accordingly, planning decisions are still Local Plan led.

For this reason, **recent planning appeals still place significant weight on Local Plan Policy S7**, particularly those parts of it that are consistent with the NPPF. For example, in the Appeal on the Land to the North of Eldridge Close, Clavering (Appeal Ref: APP/C1570/W/21/3267624), while the Inspector (at paragraph 7 of his decision) acknowledged the conflict between the first element of Policy S7 (restricting housing development in the countryside) and the NPPF and could, therefore, afford little weight to this element, on the other hand, he determined that:

*"...the second element, which relates to the character and appearance of the countryside, is consistent with the Framework and can be afforded **considerable weight**" (our emphasis).*

Accordingly, it is still the case that the **development should be judged** against its impact on the character and appearance of the countryside **in the light of Local Plan Policy S7**.

The reference to Policy S7 in paragraph 6.37 of the Applicant's Planning Statement is misleading in the light of the Appeal decision we have referred to. In this paragraph, the Applicant maintains that Local Plan Policy S7 is: *"considered to be out of date"*. That is both an over-simplification of the general position regarding whether or not Local Plan Policies are out of date, as well as a devaluation of the weight that should be attached to the compliant part of Policy S7.

6. Failure to comply with NPPF requirements

The proposed development fails to comply with:

- Paragraph 180(b) of the NPPF, in that it would not contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside;
- Paragraph 20(d) of the NPPF, in that the development will not conserve and enhance the natural environment, including the landscape (and as such, it would not be sustainable as required by paragraph 8 of the NPPF); and
- Paragraph 135(c) of the NPPF, in that it would not be sympathetic to local character, including the surrounding landscape setting.

Paragraph 3.5 of the Applicant's Transport Statement refers to the September 2023 update of the NPPF. The writer of that Statement seems unaware of the December 2023 update.

7. Previous Appeals turned down for housing on nearby land in the northern part of the village

In 2012, when UDC had 4.1 years Housing Land Supply, an Inspector dismissed at appeal the outline planning application for 31 dwellings on the application site. This was considered in relation to NPPF requirements, and it was determined that this 'end of the village' was not sustainable – **even though in those days there was a smattering of weekday public buses, which now no longer run**. The inspector clearly stated at paragraph 16 of his decision (APP/C1570/A/12/2184181) that:

"Most of the facilities are at the other, southern end of the village.....At a fairly brisk walking pace, it takes about 20 minutes to reach the Primary School and probably another couple of minutes to enter the building. It takes about 24 minutes to walk to the supermarket/post office, and no doubt longer if accompanied by a child, buggy and a bag full of shopping on the way back.....The footpath is, however, narrow in places, and Mr Gary Weston's comment that "you never see parents walking through this section through the middle of the village" is unsurprising. Thus the appeal site is not well located with regard to convenient access to the limited range and distribution of facilities towards the far ends of the village. These circumstances would inevitably result in a greater use of private transport and a significant increase in traffic along village roads, ill-suited to accommodate it in terms of physical and environmental capacity"

In addition, on an Appeal against refusal of a single house on Stickling Green Road (APP/C1570/W/19/3236287), the Inspector, at Page 20 of the decision notice, stated that:

"Nevertheless, in the context of the Framework, the proposal would cause harm by virtue of failing to recognise the intrinsic character and beauty of the countryside which, even noting the limited scale of development under consideration here, attracts considerable weight in the planning balance"

The proposed development in question here was on a genuinely enclosed site in the corner of a field. The current application is for a larger development on a larger field that will figure more prominently in the overall landscape. As such it also fails to recognise the intrinsic character and beauty of the countryside.

8. Heritage harm

Contrary to paragraph 6.30 of the Applicant's Planning Statement, the new dwellings on the site will be clearly visible to the Cricketers pub (a Grade II Listed Building) across its car park. The vegetation on the site boundary with the Cricketers car park (while offering a degree of screening during the summer months), will fail to do so for the 6 months or so after leaf fall. In addition, the hedge at the road end of the Cricketers car park will cease to screen the site

after leaf fall. It is noted that in Section 8.07 of the Applicant's Design and Access Statement, LVIA view No 14 was taken during the summer months which clearly gives a shielded view of the site across the Cricketers car park that will not give the same cover after leaf fall.

The degree of visibility from the Cricketers pub will be exacerbated by the fact that the nearest part of the application site will (according to section 8.02 of the Applicant's Design and Access Statement) have an urban appearance (described as an "urban design approach") that will grate against the design and layout of the Cricketers buildings.

In addition, and while the Applicant maintains that the distance between (i) the application site and the nearby Conservation Area and (ii) the non-designated heritage asset of Hill Green Farmhouse (and its red brick barn that forms the edge of the Conservation Area), plus the presence of the more recent barn within the farmhouse grounds together remove any heritage harm, when viewed 'on the ground', this is clearly not so.

The proposed development will also impact on the setting of the nearby Clavering Court Farm cluster of buildings.

With this in mind, KCR has commissioned a Heritage Assessment from Dr. Richard Hoggett. This provides a critical review of the likely impact of the proposed development on designated and non-designated heritage assets and the heritage harm that will be caused.

Dr Richard Hoggett's Heritage Assessment is attached to this letter as Appendix 2
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9. Development not sustainable

Paragraph 2.01 of the Applicant's Design and Access Statement maintains that:

"Clavering is well located and can be considered a sustainable location"

In addition, paragraph 6.84 of the Planning Statement maintains that:

"the location of the site is part of a sustainable extension to Clavering"

Clavering is sustainable as a village because of its facilities. What the Design and Access Statement and the Planning Statement fail to recognise is the **distinction** between the **locational sustainability** of Clavering as a village and **individual sustainability** of each and every part of it. Locational sustainability was established by the Inspector's decision in the Appeal in respect of the land at the rear of Clavering Primary School (APP/C1570/W/19/3233882 at Paragraph 6) when the Inspector said that:

"Clavering is a locationally sustainable village for additional housing"

The distinction between **locational sustainability of the village** and **individual site sustainability** was recognised by the Inspector in the Appeal for 31 houses on the current application site when, at paragraph 18, he said that:

"In essence, the site is not in a sufficiently sustainable location, and this consideration is of greater moment than issues of housing land supply."

It should be noted that the Inspector felt that the lack of individual site sustainability was **of greater importance than issues of housing land supply**.

In the case of the current application **the proposed development is not sustainable as it is between 1.6 and 1.9 kilometres from the main cluster of village facilities along Stortford Road**. This is well beyond the acceptable walking distance of 800 metres and will simply encourage greater movement by car.

Even when walking as one proceeds further towards the main village facilities, it becomes in parts very narrow (certainly too narrow for most children's prams and buggies or for a mobility scooter). In short, this is an entirely unsuitable walking route, particularly for children and those who are elderly and/or disabled.

In addition, locating the development in this part of the village at a distance from the principal village facilities fails to encourage movement by means other than driving a car, contrary to Local Plan Policy GEN1.

Much is made, in paragraphs 5.61 to 5.63 of the Applicant's Planning Statement, of the fact that Clavering is a "Large Village". However Clavering fails to meet UDC's criteria for that designation as set out in the Uttlesford Settlement Services and Facilities Topic Paper Updated October 2023. That paper requires that the Larger Villages:

"also have some level of connectivity to the transport network in Uttlesford"

Because of the lack of a publicly available bus service, Clavering has **no** *"level of connectivity to the transport network in Uttlesford"*.

Specifically on the three objectives of sustainability:

The arguments put forward in paragraphs 6.11 to 6.35 of the Applicant's Planning Statement to justify sustainability are deficient in the following respects:

The economic objective

Paragraph 6.16 of the Applicant's Planning Statement states that there will be short term benefits to local contractors etc associated with the construction phase of the development. Experience has shown, however, that these benefits do not always materialise with contracts placed further afield, so very limited weight should be attributed to this.

The application site is not in the right place, being too far from core village facilities.

Paragraph 6.17 of the Applicant's Planning Statement maintains that the development will support:

"the viability of public transport services"

With no publicly available bus service in Clavering, the development will be supporting the viability of something that does not exist! Nor is it likely to exist because, had there been sufficient demand, the previous bus service would presumably still be in existence.

The social objective

There are no publicly available bus services in Clavering. This, along with the distance from core village facilities renders it difficult to justify that local services will be available to residents on the development in the light of the unrealistic expectation that residents will be willing to walk unreasonable distances or cycle along the winding and narrow and often busy road that connects the site to them. The bottom line is that they will simply jump into their cars.

Contrary to paragraph 109 of the NPPF, the application site does not limit the need to travel and does not offer a genuine choice of transport modes as there is no publicly available bus service.

The environmental objective

The landscaping proposals referred to in paragraphs 4.11, 6.31 and 6.51 of the Applicant's Planning Statement as well as in the Applicant's Biodiversity Net Gain Assessment will never effectively replace, let alone enhance, a relatively undisturbed field with its trees and hedgerows. The Applicant appears to presuppose that a rural field has little environmental value whereas development planting and a few nest boxes etc (who will maintain them?) will somehow encourage wildlife. What is inevitably overlooked in these assessments is:

1. The human element. There is a major difference between the attractions to wildlife of a rural environment as opposed to that of a housing environment. The **introduction of dwellings, garages and an access road with its accompanying plethora of human activity, including the effects of noise and vibration, will be significant.** Also, how will it be possible to prevent residents' children and others from playing in the new wood? This negative human impact always seems to be ignored in biodiversity assessments.
2. Hedgerows and other planting within the boundaries of owner-occupied dwellings will not be the equivalent of those left largely in peace at field boundaries. Experience shows they will be **subject to the wishes of house owners desiring to achieve open countryside views.**
3. Habitat features, bird boxes, bat boxes and the like, while having certain 'sound bite' qualities, **will be subject to the whims and fancies of residents** on the development as regards their maintenance and ultimate continuance.

It is of concern that by the Applicant's own admission in paragraph 6.3 of its Biodiversity Net Gain Assessment that there will be a net loss of 54.36% in habitat units and it is difficult to see how adequate offsite compensation can be achieved, whether through a S106 Agreement or otherwise.

Hedgerows will offer significantly less screening of the new development after leaf fall particularly in the case of newly replanted replacements that may take years to develop properly, the more so if the Applicant chooses to use the 'instant hedge' variety with a confined rootball.

10. Transport and Highways

The view towards the road from the site is poor, having regard to the fact that the proposed development access road sits on a slow but limited visibility bend. This point of access lies just a few yards from the **two** main entrances to the Funstons business/industrial centre. This limited vision, combined with the traffic serving the Funstons site (that includes large delivery lorries) makes this an unsafe and inappropriate access to a residential estate of 28 new dwellings.

Paragraph 3.11 is wrong when it says that:

"The site is in an area with public transport opportunities".

With no public bus service in Clavering, it is difficult to see how this statement can be justified.

Also, the main exit route from Clavering to nearby towns is the Wicken Road that, between 30mph villages, has a 60mph speed limit. This is a busy road in rural terms, used by large commercial vehicles and with traffic travelling fast, is not a comfortable route for cyclists.

With no public transport available in Clavering, it is difficult to see how paragraph 3.17 of the Applicant's Transport Statement can say that it has demonstrated that:

“the site is connected to existing bus and rail links”

Consequently, the case for sustainability on these grounds has not been made.

11. Clavering has no public bus service

Paragraphs 2.5, 2.6, 6.24, 6.25, 6.35 and 6.80 of the Applicant’s Planning Statement all make the simple error that the bus services referred to are available to the public. The correct position is that Clavering has no public bus service. Proper investigation would have revealed that the bus services to which the Applicant’s consultants refer are school buses contracted to Essex County Council as the education authority. As such, and **because they are specifically contracted for this purpose only**, they are **not available to the public and do not connect the site to nearby towns**.

Section 2.02 of the Applicant’s Design and Access Statement follows this same erroneous route. Indeed, section 4.01 of the Design and Access Statement maintains that (a) there are bus stops located along the main route through the village and (b) that this bus stop ‘evidence’ must mean that there are buses offering services into surrounding villages and towns. There are no visible bus stop structures in the village, although it is possible that a cursory Google Earth search may show historic evidence that at some time there may have been places where buses stopped. However, Google is not always a correct indicator of what the current position is and needs to be backed by further research which has obviously not been done.

Exactly the same ‘bus service’ mistake has been made in paragraphs 2.11 to 2.18 of the Applicant’s Transport Statement. As a result, those of its conclusions that are based around the availability of public transport to enable access to various destinations, are simply wrong.

The reference in paragraph 2.18 of the Applicant’s Transport Statement to the DaRT service fail to mention that it does not run if there is insufficient demand for any particular journey. Essex County Council, that funds the service, is also believed to be reviewing its economic viability so its future is in some doubt.

12. Clavering’s 111 new house target

UDC have said that Clavering’s target for 111 new houses is likely to be reduced when the Regulation 19 version of the draft new Local Plan is published this spring. The reason for this is the gap in time between when that figure was calculated and the Regulation 19 Local Plan publication date.

Paragraphs 5.63, 6.9 and 9.7 of the Applicant’s Planning Statement refer to this allocation, making the point that 28 new dwellings will make a significant contribution to the 111 figure. While that may be so, Clavering’s housing allocation is intended to be spread over the period of the New Local Plan (i.e. between now and 2041), presumably to allow new residents to integrate into the existing community. In view of this, the need for such a large portion of housing to be provided now, is not as important as the Applicant maintains. This is particularly so in view of the large number of recent developments in the village that will provide 75 new homes already. This is evidenced by the fact that UDC originally allocated 186 new homes for Clavering, but due to those recent developments this figure was reduced to 111 by the time the Regulation 18 version of the draft new Local Plan was available for consultation.

CONCLUSION

It is always tempting for developers to overstate the supposed benefits of a proposed development. With this particular development, the significant harms, particularly the

distance from core village facilities, outweigh the benefits. Put quite simply, whatever its merits might otherwise be, the proposed development is in the wrong place.

For the reasons detailed above, the development should be **REFUSED**.

Yours faithfully,

Frank Woods
Deputy Chair
Keep Clavering Rural

APPENDIX 1

- **MBELC's Review of Landscape Aspects of Planning Application**
(see separate document)

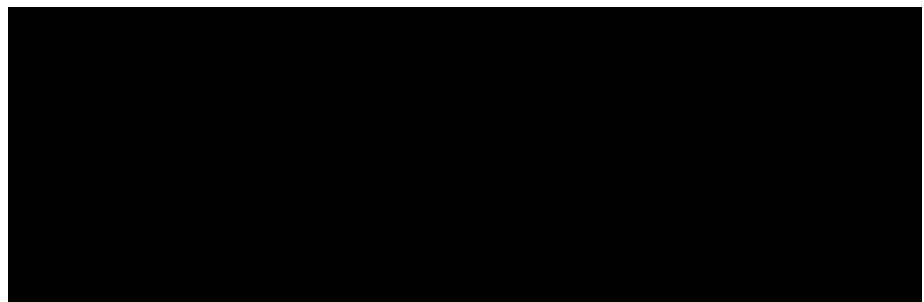
APPENDIX 2

- **Dr Richard Hoggett's Heritage Assessment**
(attached)

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APPENDIX 2

Heritage Assessment

Land west of The Cricketers,
Clatterbury Lane, Clavering



Planning Refs

PINS: S62A/2023/0030 & UDC: UTT/23/3113/PINS

prepared for
Keep Clavering Rural
February 2024

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1. Introduction

- 1.1 This Heritage Assessment has been prepared by Dr Richard Hoggett FSA MCIFA on behalf of Keep Clavering Rural (formerly known as Hands Off Clavering), an action group working to resist the urbanisation of the Essex village of Clavering. Specifically, I have been commissioned to critically review the heritage impact elements of an outline planning application with all matters reserved except access for up to 28 dwellings (class C3) including public open space, sustainable drainage systems, landscaping and associated infrastructure, on land west of The Cricketers, Clatterbury Lane, Clavering. As Uttlesford District Council is currently in 'special measures', the application has been made directly to the Planning Inspectorate under Section 62A of the Town and Country Planning Act 1990 (PINS Ref. S62A/2023/0030; UDC Ref. UTT/23/3113/PINS).
- 1.2 This application follows the refusal of a similar scheme for 31 dwellings on the site, which was refused by Uttlesford District Council in August 2012 and also dismissed at appeal in May 2013 (UTT/0507/12/OP). A subsequent scheme for nine dwellings on the site (initially under the Rural Exception Scheme but then amended to 'retirement bungalows, possibly with a Warden Call system') was again refused in December 2013, citing the same reasons for refusal (UTT/13/2228/OP).
- 1.3 In preparing this report, I have reviewed all of the relevant submitted documents, with a particular emphasis on the submitted Design and Access Statement prepared by BAYA Projects, the Heritage Statement prepared by SmithJenkins Planning and Heritage, and the Archaeological Desk-Based Assessment prepared by Lanpro. In addition, I have consulted the National Heritage List for England (last accessed on 8th February 2024), the Clavering Conservation Area Appraisal, approved by Uttlesford District Council in 2007, and the Uttlesford Local Heritage List (Part 1), produced by Uttlesford District Council in 2018.
- 1.4 I undertook an accompanied site visit with members of Keep Clavering Rural on 7th February 2024 and have familiarised myself with the historic landscape within and around the proposed development area, and the heritage assets adjacent to the site. In doing so, I have paid particular attention to the contribution which the proposed development site makes to the setting of those heritage assets.
- 1.5 Section 2 of this report presents the framework of legislation, planning policy and guidance which applies to the application site. Section 3 sets out the details of the proposed development. Section 4 critically reviews the submitted planning documents, identifies and assesses the designated and non-designated heritage assets which lie within and surround the site, and presents an assessment of the likely impact of the proposed development. Section 5 presents the conclusions of this report.

2. Legislation, Policy and Guidance

- 2.0.1 Where any development may affect designated or non-designated heritage assets, there is a framework of legislation, planning policy and guidance which ensures that development proposals are determined with due regard to their impact on the historic environment. The legislation, policy and guidance of relevance to the proposed development area are presented here.

2.1 Legislation

2.1.1 Planning (Listed Buildings and Conservation Areas) Act 1990

- 2.1.1.1 Legislation pertaining to buildings and areas of special architectural and historic interest is contained within the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66(1) of the 1990 Act states that:

in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 2.1.1.2 In the 2014 Court of Appeal judgement in relation to the Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG, Lord Justice Sullivan held that:

[2014] EWCA Civ 137, Para. 24: Parliament in enacting section 66(1) did intend that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.

- 2.1.1.3 In a second 2014 Court of Appeal judgement in relation to Jones v Mordue, SOSCLG and South Northants Council, Lord Justice Sales clarified that, with regards to the setting of Listed Buildings, where the principles of the NPPF are applied (in particular paragraph 134, now paragraph 196 of the revised NPPF), this is in keeping with the requirements of the 1990 Act.

2.2 Planning Policy

2.2.1 National Planning Policy Framework

- 2.2.1.1 Designated and non-designated heritage assets are given protection under the National Planning Policy Framework (NPPF), the original version of which was published by the then Department for Communities and Local Government in March 2012. A revised version of the NPPF was published by

the Ministry of Housing, Communities and Local Government (MHCLG) in July 2018, to which minor updates were made in February 2019, although these did not affect the sections pertaining to heritage. A second revised version of the NPPF was published by the MHCLG in July 2021, which preserved the approach to conserving and enhancing the historic environment presented in the previous iteration, and this was updated again by the Department for Levelling Up, Housing and Communities (DLUHC) in September 2023. A further updated version of the NPPF, revised in response to the Levelling-up and Regeneration Bill, was published by the DLUHC in December 2023. With regard to heritage, the latest iteration of the NPPF contains no substantive changes in planning policy, although the paragraph numbering has changed in response to earlier insertions made in the document.

- 2.2.1.2 Provision for the historic environment is considered in Section 16 of the NPPF, which directs Local Planning Authorities to set out 'a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats' (NPPF, para. 196). The aim is to ensure that Local Planning Authorities, developers and owners of heritage assets adopt a consistent approach to their conservation and to reduce complexity in planning policy relating to proposals that affect them.
- 2.2.1.3 Paragraph 200 of the NPPF states that 'In determining applications, local planning authorities should require an Applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.'
- 2.2.1.4 Paragraph 201 of the NPPF instructs Local Planning Authorities to 'identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise'.
- 2.2.1.5 Paragraph 205 of the NPPF states that 'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'.
- 2.2.1.6 Paragraph 206 of the NPPF explains that 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification'. As a corollary, paragraph 208 states that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.

2.2.1.7 In addition to the effects on designated heritage assets, paragraph 209 of the NPPF states that 'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'. A footnote to paragraph 206 of the NPPF makes it clear that 'non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets' (NPPF, footnote 72).

2.2.2 Uttlesford Local Plan

2.2.2.1 The Development Plan for Uttlesford District is made up of the Adopted Local Plan, the Minerals Local Plan and the Waste Local Plan. The current Local Plan was adopted in 2005 and provides the basis for all planning decisions within the district. It contains policies relating to the location of development and protection of environmental features. These policies are monitored and reviewed by the council to make sure that they are meeting the council's aims. The Council is currently in the process of developing a new Local Plan.

2.2.2.2 Policy ENV1 of the Local Plan concerns development within Conservation Areas and states that: 'Development will be permitted where it preserves or enhances the character and appearance of the essential features of a Conservation Area, including plan form, relationship between buildings, the arrangement of open areas and their enclosure, grain or significant natural or heritage features. Outline applications will not be considered. Development involving the demolition of a structure which positively contributes to the character and appearance of the area will not be permitted.'

2.2.2.3 Policy ENV2 of the Local Plan concerns development affecting Listed Buildings and states that: 'Development affecting a listed building should be in keeping with its scale, character and surroundings. Demolition of a listed building, or development proposals that adversely affect the setting, and alterations that impair the special characteristics of a listed building will not be permitted. In cases where planning permission might not normally be granted for the conversion of listed buildings to alternative uses, favourable consideration may be accorded to schemes which incorporate works that represent the most practical way of preserving the building and its architectural and historic characteristics and its setting.'

2.2.2.4 Policy ENV4 of the Local Plan concerns Ancient Monuments and Sites of Archaeological Importance and states that: 'Where nationally important archaeological remains, whether scheduled or not, and their settings, are affected by proposed development there will be a presumption in favour of their physical preservation *in situ*. The preservation *in situ* of locally important archaeological remains will be sought unless the need for the development outweighs the importance of the archaeology. In situations where there are

grounds for believing that sites, monuments or their settings would be affected developers will be required to arrange for an archaeological field assessment to be carried out before the planning application can be determined thus enabling an informed and reasonable planning decision to be made. In circumstances where preservation is not possible or feasible, then development will not be permitted until satisfactory provision has been made for a programme of archaeological investigation and recording prior to commencement of the development.

2.2.2.5 Policy ENV9 of the Local Plan concerns Historic Landscapes and states that: 'Development proposals likely to harm significant local historic landscapes, historic parks and gardens and protected lanes as defined on the proposals map will not be permitted unless the need for the development outweighs the historic significance of the site.'

2.2.3 National Planning Practice Guidance

2.2.3.1 The NPPF is complemented by a series of National Planning Practice Guidance documents, which include specific guidance on the application of the NPPF to the historic environment, published in 2014 and last updated in July 2019. Regarding how proposals can avoid or minimise harm to the significance of a heritage asset, the guidance states that 'analysis of relevant information can generate a clear understanding of the affected asset, the heritage interests represented in it, and their relative importance' (Paragraph: 008 Reference ID: 18a-008-20190723).

2.2.3.2 The guidance goes on to state that 'applicants should include analysis of the significance of the asset and its setting, and, where relevant, how this has informed the development of the proposals. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on its significance' (Paragraph: 009 Reference ID: 18a-009-20190723).

2.2.4 Historic England Guidance

2.2.4.1 Historic England's guidance document *Managing Significance in Decision-Taking in the Historic Environment* advises that significance should be assessed as part of the application process (Historic England 2015). It also advocates understanding the nature, extent, and level of significance of a heritage asset by considering the aesthetic, communal, historic and evidential values which a heritage asset may hold.

2.2.4.2 Historic England's most recent guidance document *Statements of Heritage Significance* advises using the terminology of the NPPF and Planning Practice Guidance, and indicates that significance should be considered to be derived from a heritage asset's archaeological, architectural, artistic and historic interest (Historic England 2019).

2.2.4.3 Historic England's Good Practice Advice in Planning Note 3 (GPA3) – *The Setting of Heritage Assets* – sets out a five-stage approach to assessing the potential impact which development proposals may have upon the settings of heritage assets (Historic England 2017). Specifically, these steps are:

- Step 1: identify which heritage assets and their settings are affected;
- Step 2: assess whether, how and to what degree these settings make a contribution to the significance of the heritage asset(s);
- Step 3: assess the effects of the proposed development, whether beneficial or harmful, on that significance;
- Step 4: explore the way to maximise enhancement and avoid or minimise harm;
- Step 5: make and document the decision and monitor outcomes.

2.2.4.4 The structure of this report follows the steps set out by Historic England with regard to the possible impacts of the proposed development on surrounding heritage assets.



Figure 1. The location of the proposed development site to the west of Clatterbury Lane. Scale 1:2,500.

3. The Proposed Development Site and Scheme

- 3.1 The proposed development area comprises a 1.26-hectare parcel of land situated to the west of Clatterbury Lane and south of Stickling Green Road, Clavering (Figure 1). The site is currently rough grassland with hedged boundaries of various heights on all sides. The site is accessed via a gated entrance from Stickling Green Road, located at the northernmost extent of the field. The highest point of the site lies in the north-eastern corner, adjacent to the road, and slopes away evenly to the south-west.
- 3.2 To the west, the site is bounded by a fenced and hedged boundary, with few trees, beyond which lies a large, triangular agricultural field. To the west of this stands Clavering Court Farm, which comprises a group of farm buildings of differing ages focussed on a Grade II-listed 17th-century farmhouse.
- 3.3 To the south, the site is bounded by a mature hedge, which separates it from further areas of grassland associated with the adjacent Hill Green Farm, the farmhouse and barns of which are located to the south-east of the site and which are recorded in the Uttlesford Local List.
- 3.4 To the east, the site is bounded by mature hedges, beyond which stand a modern barn associated with Hill Green Farm and a tarmacked car park. These are in turn bounded by the north-south line of Clatterbury Lane, to the east of which stands the Cricketers public house, a Grade II listed building, together with other domestic properties fronting onto the road.
- 3.5 To the north, the site is bounded by a mature hedge and a drainage ditch, and fronts onto Stickling Green Road. To the north of the road is the modern residential development of Eldridge Close, which replaced the former Jubilee Works which used to stand on the site, adjacent to which stand modern warehouse units.
- 3.6 The current outline planning application proposes the development of up to 28 dwellings (class C3) including public open space, sustainable drainage systems, landscaping and associated infrastructure, with all matters reserved except access. As Uttlesford District Council is currently in 'special measures', the application has been made directly to the Planning Inspectorate under Section 62A of the Town and Country Planning Act 1990 (PINS Ref. S62A/2023/0030; UDC Ref. UTT/23/3113/PINS).
- 3.7 This application follows the refusal of a similar scheme for 31 dwellings on the site, which was refused by Uttlesford District Council in August 2012 and also dismissed at appeal in May 2013 (UTT/0507/12/OP). A subsequent scheme for nine dwellings on the site (initially under the Rural Exception Scheme but then amended to 'retirement bungalows, possibly with a Warden Call system') was again refused in December 2013, citing the same reasons for refusal (UTT/13/2228/OP).

- 3.8 Although indicative, the submitted Design and Access Statement and Illustrative Master Plan depict a central north–south road, accessed from Stickling Green Road, fronted by ‘semi-urban’ housing on both sides. A westwards extension to the road leads to more, open-form housing forming a ‘rural edge’ located within the western part of the site. A pair of bungalows is shown located to the east of the site, adjacent to The Cricketers’ car park and a large, two-storey apartment block is located in the south-eastern corner of the site, adjacent to Hill Green Farm. This is the scheme which the submitted documents, including the Heritage Statement, have assessed, but as an outline application, it is not possible to know at this stage the final form which the development will take. As such, this application very much focusses on the principle of development rather than the specific forms of individual buildings.
- 3.9 Section 3 of the submitted Heritage Statement prepared by SmithJenkins Planning and Heritage provides an illustrated analysis of the historical development of the proposed development site and its immediate environs. This analysis is comprehensive and draws upon historical mapping and indicates that the proposed development area has been open agricultural land since the early decades of the 19th century, and probably much longer. The 1839 tithe map and apportionment indicate that it was owned by Baron Dimsdale and occupied by Joshua Pilgrim, who also owned and occupied many other parcels of nearby land, including the agricultural land to the west and north-west of the proposed development area and the Hill Green Farm complex to its south-east.
- 3.10 The proposed development site has therefore been agricultural land associated with Hill Green Farm since at least the early 19th century, and probably much longer, and historical mapping and aerial photographs indicate that the site has remained largely unchanged for more than 200 years.



Figure 2. Designated and non-designated heritage assets surrounding the proposed development area. Scale 1:2,500.

4. Heritage Impact Assessment

- 4.0.1 Having established the nature of the proposed outline development and the historical character of the site, this section considers the designated and non-designated heritage assets which surround the site and reviews the projected impact which the proposed development would have upon them.
- 4.0.2 The current application is supported by a Heritage Statement prepared by SmithJenkins Planning and Heritage and an Archaeological Desk-Based Assessment prepared by Lanpro, which identify the designated and non-designated heritage assets which surround the proposed development area and present an assessment of the likely impact which the scheme will have upon them.
- 4.0.3 Section 4 of the submitted Heritage Statement (HS) identifies a list of 16 Listed Buildings which stand within a 500m radius of the proposed development site, together with the Clavering Conservation Area, and five locally-listed buildings which are identified as non-designated heritage assets.
- 4.0.4 This section presents a critical review of these assessments and identifies additional heritage assets which will also be impacted upon by the scheme.

4.1 Listed Buildings

- 4.1.0.1 There are no listed buildings within the proposed development area, but several listed buildings stand in close proximity to it and the proposed development site has the potential to form part of their setting (Figure 2).
- 4.1.0.2 Section 4 of the submitted Heritage Statement identifies a list of 16 Listed Buildings which stand within a 500m radius of the proposed development site. Of these, the assessment considers that only three listed buildings have the potential to be impacted upon by the proposed development. All of these buildings stand to the east of the proposed development site and they are:
- Peacocks (Grade II; NHLE 1322475): A 17th- to 18th-century timber-framed and plastered building. Renovated. Two storeys. Four-window range of modern casements. A modern gabled porch projects on the front. Roof thatched, half-hipped, with a central chimney stack.¹
 - Lantern Thatch (Grade II; NHLE 1170805): A 17th-century timber-framed and plastered building. Renovated and much altered. One storey and attics. Modern lattice leaded casements. Roof thatched, with three dormers. The interior has exposed timber-framing, ceiling beams and joists.²



- The Cricketers (Grade II; NHLE 1306087): Of 16th-century origin, but with mainly 18th- and 19th-century external features. Partly timber-framed and plastered and partly brick colour-washed. A 19th-century gabled addition projects on the front. Two storeys. Three-window range of double-hung sashes with vertical glazing bars. Roof slate, with three internal chimney stacks.³

4.1.0.3 A Grade II-listed K6 telephone kiosk (NHLE 1267716) also stands to the east of the proposed development area, on the western side of Clatterbury Lane (see Figure 2). Despite its close proximity, given the limited nature of the kiosk's setting, the Applicant has scoped it out of their assessment. I agree with this conclusion.

4.1.1 Peacocks

4.1.1.1 The Applicant's assessment of the significance of the Grade II-listed Peacocks identifies that the relatively open setting of the house makes a contribution to its significance (HS, paras 4.14–17). However, the Applicant's assessment concludes that the 20th-century development of the commercial Jubilee and Britannia works on the opposite side of Clatterbury Lane has had a negative impact upon the setting of the house by 'altering the historic rural setting of open farmland' (HS, para. 4.16).

4.1.1.2 The Applicant concludes that the distance between the proposed development site and Peacocks, and the lack of historical relationship between the two entities, means that the site does not form part of the setting of the building and that it does not, therefore, contribute to the significance of the listed building (HS, para. 4.18). As such, the Applicant concludes that the proposed development will have no impact upon the listed building (HS, paras 5.17–21).

4.1.1.3 I disagree with the Applicant's assessment. While it is true that the 20th-century commercial buildings have partially eroded the formerly rural setting of Peacocks, it has not been completely eroded and is preserved in the rural character of the proposed development site. The hedged northern boundary of the proposed development site is intervisible with Peacocks and, although uninterrupted views will not necessarily be afforded, it is considered likely that the residential nature of the proposed development would be discernible as a change in the landscape character of the setting of the house. It also needs to be remembered that this is currently only an outline application, with indicative plans submitted, and that the retention of hedges and the layout and height of the proposed buildings are not subjects of this planning application.

4.1.1.4 The proposed development site forms a small part of the setting of Peacocks, which in turn makes a small contribution to the significance of the heritage asset. As a consequence, I conclude that the change of landscape character which would be brought about by proposed development would effectively sever the last link which Peacocks has to the surrounding rural landscape and result in 'less than substantial harm' to the heritage asset. This harm would sit at the lowest end of the scale.

4.1.2 Lantern Thatch

4.1.2.1 The Applicant's assessment of the significance of the Grade II-listed Lantern Thatch (which the Applicant erroneously refers to as Lantern Latch in their Heritage Statement) identifies that although the immediate garden setting of the house contributes towards its significance, the enclosed nature of its grounds and developed nature of its surroundings mean that the wider setting of the house does not contribute to its significance (HS, paras 4.25–27).

4.1.2.2 The Applicant concludes that the distance between the proposed development site and Lantern Thatch, and the lack of historical relationship between the two entities, means that the site does not form part of the setting of the building and that it does not, therefore, contribute to the significance of the listed building (HS, para. 4.28). As such, the Applicant concludes that the proposed development will have no impact upon the listed building (HS, paras 5.22–23).

4.1.2.3 I agree with this assessment.

4.1.3 The Cricketers

4.1.3.1 The Applicant's assessment of the significance of the Grade II-listed The Cricketers identifies that the prominent position of the public house on a road junction means that the historic layout of its immediate setting remains intact and contributes towards its significance (HS, para. 4.39–41).

4.1.3.2 The Applicant concludes that the 20th-century development of the commercial Jubilee and Britannia works and car park on the opposite side of Clatterbury Lane has had a negative impact upon the setting of the listed building by detracting from the rural character of its wider setting (HS, para. 4.40).

4.1.3.3 The Applicant concludes that although the site is located opposite The Cricketers it does not contribute towards the setting of the listed building because of the visual separation caused by the mature hedgerow which bounds the eastern edge of the site and the area of the car park (HS, para. 4.42). As such, the Applicant concludes that the proposed development will have no impact upon the listed building (HS, paras 5.24–26).

4.1.3.4 I disagree with the Applicant's assessment. While it is true that the construction of the 20th-century commercial buildings and car park have partially eroded the formerly rural setting of The Cricketers, this setting has

not been completely eroded and is preserved in the rural character of the proposed development site.

4.1.3.5 As is depicted in the submitted Heritage Statement, the hedged eastern boundary of the proposed development site is intervisible with the western range of The Cricketers and the upper reaches of the residential development will be clearly visible above and through the existing hedgerow. The submitted wireframe images are based on single-storey bungalows being constructed in the eastern part of the site, and these are demonstrably visible, and any two-storey structures would be particularly visible. While the applicant states that the mature hedgerows will be retained and housing in the eastern part of the site restricted to a single storey, these bungalows are backed by two-storey dwellings and the apartment block at the south-eastern corner of the site is a large two-storey structure. It also needs to be remembered that this is only an outline planning application, with indicative plans submitted, and these elements may change at a later date.

4.1.3.6 I conclude that the proposed development site does form a part of the rural setting of The Cricketers and that it contributes to the significance of the heritage asset. As a consequence, I conclude that the change of landscape character within the setting of the listed building which would be brought about by proposed development would result in 'less than substantial harm' to the heritage asset and that this harm would sit at the lower end of the scale.

4.1.4 Clavering Court Farm Complex

4.1.4.1 My own assessment of the likely heritage impact of the submitted scheme also concludes that two of the listed buildings located to the west of the proposed development site should also have been scoped into the Applicant's heritage assessment. These two buildings are:

- Clavering Court Lodge (Grade II; NHLE 1112399): A 17th-century timber-framed and plastered house. Two storeys. Two-window range of casements with leaded lights (modern). A modern central gabled porch projects on the front. Roof tiled, hipped at the east end, with an original central chimney stack with three attached diagonal shafts.⁴
- Court Cottage (Grade II; NHLE 1112398): An 18th-century timber-framed and plastered house. Two storeys, with one-storeyed extensions at the east and west ends. Two-window range to the main block and one-window range to each extension. Leaded casements to the main block. Boarded doors. Roof thatched, half-hipped on the main block, with a central chimney stack.⁵

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4.1.4.2 Clavering Court Lodge and Court Cottage form part of an historical farm complex, which also includes an additional building – Clavering Court – which is not listed, but which has enough historic and architectural interest to be considered a non-designated heritage asset. This was a late addition to the farm complex and is a good example of an early Victorian villa farmhouse for an improved farm. The original form, materials, enclosing walls, gates and grounds of the house appear to have remained relatively unaltered since its construction.

4.1.4.3 While only Clavering Court Lodge and Court Cottage are listed buildings, and Clavering Court is identified as a non-designated heritage asset, many of the existing buildings within the farmstead complex are considered to be curtilage listed. Historic England's Advice Note 10 on *Listed Buildings and Curtilage* defines the curtilage of a listed building thus: 'The curtilage of a building (the principal building) is in general terms any area of land and other buildings that is around and associated with that principal building.' In identifying buildings which lay within the curtilage and which are legally considered to be 'curtilage listed', the courts have said that there are three key factors to be taken into account in assessing whether a structure or object is within the curtilage of a listed building:

- the physical layout of the listed building and the structure;
- their ownership, both historically and at the date of listing; and
- the use or function of the buildings, historically and at the date of listing

4.1.4.4 The cluster of historic farm buildings which surround the two listed buildings, including Clavering Court, fulfil these criteria and the buildings which constitute the historic farmstead should therefore be considered to be a coherent group of listed buildings, despite the later changes to their forms and ownership. As such, the Clavering Court Farm complex forms an important cluster of historic buildings, which have a clear line of sight with the proposed development site, which forms part of its agricultural setting.

4.1.4.5 I conclude that the proposed development site forms part of the setting of the group of listed and curtilage listed buildings which constitute the Clavering Court farmstead. The rural landscape setting of the farm complex contributes to the perception of this being a discrete farmstead and therefore makes a positive contribution to their significance. The change in landscape character which would be brought about by the proposed development would partially erode the existing rural setting of the Clavering Court farm complex, which would in turn harm its significance, resulting in 'less than substantial harm' at the lower end of the scale.

4.1.5 Weighing Heritage Harm

4.1.5.1 Under paragraph 208 of the NPPF, the identified 'less than substantial harm' needs to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Under paragraph 205 of

the NPPF, when considering the impact of a proposed development on the significance of a designated heritage asset, 'great weight' should be given to the asset's conservation and the more important the asset, the greater the weight should be. Likewise, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and subsequent legal judgements indicate that this harm should be given 'considerable importance and weight' when the decision-maker carries out the balancing exercise. This detrimental effect upon the setting of these buildings also means that the proposed development also does not comply with Policy ENV2 of the Uttlesford District Local Plan.

4.2 Conservation Area

- 4.2.2.1 The Clavering Conservation Area encompasses two main areas, separated by a short length of road (Figure 2). The southern part of the Conservation Area focusses around the medieval core of the settlement, while the northern part encompasses a smaller area of roadside settlement focussed around Hill Green. A detailed appraisal of the Conservation Area was undertaken by Uttlesford District Council in 2007, in which the Hill Green area of the Conservation Area was characterised as having 'a pleasing, predominantly rural character which is distinct from the more densely developed area further north on the Wicken and Arkesden Roads' (para. 1.114).⁶
- 4.2.2.2 In their submitted assessment the Applicant concludes that as the proposed development site lies outside the Clavering Conservation Area it does not contribute to the character and appearance of the Conservation Area (HS, para. 4.61). As such, they conclude that the proposed development will cause no harm to the significance of the Conservation Area (HS, para. 5.31). I disagree with this conclusion.
- 4.2.2.3 Although the proposed development area lies outside the northern boundary of the Clavering Conservation Area it is situated in very close proximity to its northern edge, from which it is separated by 50m of grassland at its northernmost extent (Figure 2). Like these listed buildings, the Conservation Area also has a setting, of which the proposed development area forms a part, the currently open and rural nature of the site making a positive contribution to this setting.
- 4.2.2.4 The fundamental change of landscape character from an area of open, rough grassland to a residential streetscape will have a detrimental impact upon the setting of the Conservation Area in this location. In particular, the proposed development will result in the erosion of the existing rural character adjacent

⁶ https://www.uttlesford.gov.uk/media/1917/Clavering-Conservation-Area-Appraisal/pdf/Clavering_Approved_CA.pdf

to the northern boundary to the Conservation Area. I conclude that this would result in 'less than substantial harm' towards the lower end of the scale.

4.2.2.5 Under paragraph 208 of the NPPF, this harm needs to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Under paragraph 205 of the NPPF, when considering the impact of a proposed development on the significance of a designated heritage asset, 'great weight' should be given to the asset's conservation and the more important the asset, the greater the weight should be. Again, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and subsequent legal judgements indicate that this harm should be given 'considerable importance and weight' when the decision-maker carries out the balancing exercise. Although the proposed development area lies outside the boundary of the Conservation Area, the effects which the scheme will have upon the northern boundary of the Conservation Area means that Policy ENV1 of the Uttlesford District Local Plan, pertaining to development within Conservation Areas, should also be taken into consideration.

4.3 Non-Designated Heritage Assets

4.3.1 Local List

4.3.1.1 In addition to the listed buildings discussed above, Hill Green Farmhouse and associated outbuildings are included in the Uttlesford Local Heritage List, which was adopted in October 2018 (Local List Ref. 023).⁷ As such, they are identified as non-designated heritage assets and the Applicant's assessment also identifies them as heritage assets which have the potential to be impacted upon by the proposed development (Figure 2).

4.3.1.2 The Local List describes the farmhouse as: 'A well-appointed farmhouse of C19th date, built of red brick with a shallow hipped slate roof and two brick chimneystacks to the rear. Symmetrical frontage with brick pilasters framing the central doorway and arched window above. Timber sash windows to the first and ground floors with glazing bar details and horns. Door is recessed behind plain squared columns and a flat hood. Deep cornice with paired brackets. A highly pleasing and little altered example that adds value to the street-scene in conjunction with the associated range of outbuildings.'

4.3.1.3 The Local List describes the associated barns and outbuildings thus: 'A most prominent feature are the distinctive range of Flemish barns facing and abutting the road. Of much higher quality than the normal Essex timber barns, these are primarily constructed of local soft red brick with decorative ventilation detailing at the roof apex.'

⁷ <https://www.uttlesford.gov.uk/media/8105/Approved-Local-Heritage-List-October-2018/pdf/Local-Heritage-List-approved-Oct-2018.pdf>

- 4.3.1.4 The Local List indicates that Hill Green Farmhouse and associated outbuildings were included in the list for their rarity, aesthetic value, group value and landmark status. They are also identified in the Clavering Conservation Area Appraisal as buildings which make an important architectural or historic contribution to the Conservation Area (para. 1.124).⁸
- 4.3.1.5 The analysis of the 1839 tithe map and apportionment presented by the Applicant in Section 3 of the submitted Heritage Statement indicates that the proposed development site was owned by Baron Dimsdale and occupied by Joshua Pilgrim, who also owned and occupied the Hill Green Farm complex and many other parcels of agricultural land to the north and west of the site. The proposed development site has therefore been agricultural land associated with Hill Green Farm since at least the early 19th century, and probably much longer.
- 4.3.1.6 The Applicant concludes that the proposed development forms part of the setting of the Hill Green farm complex and contributes to its significance due to the historical relationship between them (HS, para. 4.68). I agree with this assessment. However, the Applicant argues that the historical association between the Hill Green Farm complex and the proposed development site is less appreciable in the modern landscape and is now better evidenced in documentary sources, such as the tithe map. The Applicant concludes that the proposed development 'will not affect the ability to appreciate nor cause harm to the significance of Hill Green Farm and Farmhouse' (HS, 5.35). I disagree with this conclusion.
- 4.3.1.7 The elevated position of the farmhouse and barn mean that they can be clearly appreciated in long views across the proposed development site from Stickling Green Road, which allow the farm to be viewed within the context of the open agricultural landscape which has characterised these views for more than 200 years.
- 4.3.1.8 The proposed residential development of the site would sever these long views, while the fundamental change in landscape character which would be brought about by the proposed development would erode the existing rural setting of the Hill Green farm complex. I conclude that the proposed development would cause 'less than substantial harm' to these locally-listed non-designated heritage assets and that this harm would lie toward the lower end of the scale.
- 4.3.1.9 Under paragraph 209 of the NPPF, this harm needs to be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, the NPPF states that a balanced

⁸ https://www Uttlesford.gov.uk/media/1917/Clavering-Conservation-Area-Appraisal/pdf/Clavering_Approved_CA.pdf

judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

4.3.2 Archaeology

4.3.2.1 By definition, the proposed development would have a direct and destructive impact upon any archaeological features or deposits which may lie buried on the site. The application is supported by an Archaeological Desk-Based Assessment, prepared by Lanpro which assesses the archaeological potential of the site as low and concludes that no archaeological evaluation or mitigation will be necessary.

4.3.2.2 This conclusion is supported by the Council's specialist archaeological advisor, Place Services, in their consultation response of 31st January 2024. I also agree with this assessment.

5. Conclusions

- 5.1 This Heritage Assessment has been prepared on behalf of Keep Clavering Rural and critically reviews the heritage impact elements of an outline planning application with all matters reserved except access for up to 28 dwellings (class C3) including public open space, sustainable drainage systems, landscaping and associated infrastructure, on land west of The Cricketers, Clatterbury Lane, Clavering. As Uttlesford District Council is currently in 'special measures', the application has been made directly to the Planning Inspectorate under Section 62A of the Town and Country Planning Act 1990 (PINS Ref. S62A/2023/0030; UDC Ref. UTT/23/3113/PINS). This application follows the refusal of a similar scheme for 31 dwellings on the site, which was refused by Uttlesford District Council in August 2012 and also dismissed at appeal in May 2013 (UTT/0507/12/OP). A subsequent scheme for nine dwellings on the site (initially under the Rural Exception Scheme but then amended to 'retirement bungalows, possibly with a Warden Call system') was again refused in December 2013, citing the same reasons for refusal (UTT/13/2228/OP).
- 5.2 In their submitted Heritage Statement, the Applicant concludes that the residential development of the site will not cause harm to the significance of any listed buildings or the Clavering Conservation Area. As is set out in this assessment, I disagree with these conclusions. It should be noted that the Applicant's assessments of heritage harm are based on an indicative layout and landscape masterplan, which will not be secured by the outline planning consent applied for.
- 5.3 My own assessment of the likely heritage impact of the submitted indicative scheme indicates that the fundamental change in landscape character of the proposed developed site from an area of open agricultural land to a residential streetscape would cause 'less than substantial harm' to the Grade II-listed buildings Peacocks (NHLE 1322475) and The Cricketers (NHLE 1306087), the Clavering Conservation Area and the locally-listed non-designated heritage assets at Hill Green Farmhouse and associated outbuildings. In every instance, this harm lies at the lower end of the scale and results from changes to the setting of each heritage asset.
- 5.4 Under paragraph 208 of the NPPF, this harm to heritage assets needs to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Under paragraph 203 of the NPPF, when considering the impact of a proposed development on the significance of a designated heritage asset, 'great weight' should be given to the asset's conservation and the more important the asset, the greater the weight should be. Again, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and subsequent legal judgements indicate that this harm should be given 'considerable importance and weight' when the decision-maker carries out the balancing exercise.

- 5.5 Under paragraph 209 of the NPPF, the identified harm to non-designated heritage assets also needs to be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, the NPPF requires that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 5.6 Although the proposed development area lies outside the boundary of the Conservation Area, the effects which the scheme will have upon the northern boundary of the Conservation Area means that Policy ENV1 of the Uttlesford District Local Plan, pertaining to development within Conservation Areas, should be taken into consideration. The harmful impact upon the setting of the identified listed buildings also means that the proposed development does not comply with Policy ENV2 of the Uttlesford District Local Plan.

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7. About the Author

Dr Richard Hoggett is a freelance heritage consultant with over 20 years' experience in the academic, commercial and local authority heritage sectors. A former Senior Archaeological Officer for Suffolk County Council, as a consultant he assesses the heritage implications of planning applications and provides specialist advice to Local Planning Authorities, developers and landowners across the eastern region. He is a Fellow of the Society of Antiquaries of London and a Member of the Chartered Institute for Archaeologists.