



Statement of Reasons & Decision Notice

Site visit made on 15 January 2024

Hearing held Tuesday 6 February 2024

by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 26 February 2024

Application Ref: s62A/2023/0026

Land west of Robin Hood Road, Elsenham

- The application was made under Section 62A of the Town and Country Planning Act 1990 (TCPA) by Rosconn, Nigel John Burfield Holmes, Rosemary Holmes, Mark Burfield Holmes, Robert Murton Holmes, Sasha Renwick Holmes, and Tanya Renwick Cran.
 - The site is located within the local planning authority area of Uttlesford District Council.
 - The application was dated 13 October 2023, with a valid date of 28 November 2023.
 - Consultation took place between 30 November 2023 and 12 January 2024.
 - The development proposed is described as: '*Outline application for the erection of up to 40 dwellings with all matters reserved except for access*'
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Statement of Reasons

Summary of Decision

Planning permission is **Granted** subject to conditions.

Procedural Matters

1. The application was submitted under s62A of the *Town and Country Planning Act 1990*, as amended (TCPA). This allows for applications to be made directly to the Secretary of State (SoS), where a local authority has been designated. Uttlesford District Council (UDC) have been designated for major applications since February 2022. The SoS has appointed a person under section 76D of the TCPA 1990 to determine the application instead of the SoS.
2. Following the closure of the representation period, Article 22 of *The Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013* requires the SoS (or appointed person) to consider the application either by hearing or on the basis of representations in writing.
3. Taking into account Section 319A of the TCPA and the *Procedural guidance for Section 62A Authorities in Special Measures*¹ published by the SoS (including Paragraph 5.1.1), as the appointed person, I considered that the issues raised in this case should be dealt with by means of a s62A Hearing. An Issues report was issued on Friday 26 January 2024. The Hearing took place on Tuesday 6 February 2024.
4. An unaccompanied site visit was carried out on 15 January 2024. The inspection included viewing the site from the surrounding area.

¹ [Procedural guidance for Section 62A Authorities in Special Measures - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/procedural-guidance-for-section-62a-authorities-in-special-measures)

Recent planning history

5. Planning permission (in outline) was granted in September 2020 at appeal (reference 3242550 and LPA reference UTT/19/0437/OP). This sought permission for up to 40 dwellings with all matters reserved except for access. It is understood that this permission is still extant. The key difference between the approved scheme and the application here is that the access is proposed to be relocated from coming off Rush Lane to coming off Robin Hood Road.
6. This extant permission is an important material consideration in this instance. It establishes the principal of the acceptability of the application site being used for residential development of a quantum proposed. That said, it is important that the application here is considered on its own merits as whilst it is similar to that approved in 2020, it is not a facsimile and there have been some minor changes to the policy context since 2020.

Planning Policy and guidance

7. The adopted development plan for this part of the Uttlesford District is the *Uttlesford District Local Plan* (adopted 2005). As identified in the Officers Report to Committee, the following policies are of particular note in this instance:
8. S7 – The Countryside, GEN1 – Access, GEN2 – Design, GEN3 – Flood Protection, GEN6 – Infrastructure Provision, ENV2 – Development Affecting Listed Buildings, ENV4 – Ancient monuments and Sites of Archaeological Importance, ENV10 – Noise Sensitive Developments, ENV13 – Exposure to Poor Air Quality, ENV14 – Contaminated Land, H1 – Housing development, H9 – Affordable Housing and H10 – Housing Mix.
9. The *National Planning Policy Framework* (the Framework) is an important material consideration. It was last updated in December 2023.

Main Issues

10. In the *Issues Report and Outline Agenda* document, and also at the start of the Hearing, I set out that the main issues, in my opinion, were:
 - (i) Whether or not there is a demonstrable five year supply of housing land in the local authority area; and,
 - (ii) The effect of the proposal on highway safety, with specific regard to the access off and on Robin Hood Road from and to the application site; and,
 - (iii) The effect of the proposal on rail safety, with specific regard to the Fullers End public footpath level crossing; and,
 - (iv) Whether the proposal makes adequate provision for infrastructure, including the provision of affordable housing; and,
 - (v) The benefits of the proposal, compliance with the development plan, and the overall planning balance.
11. Given the proximity of some listed buildings nearby, it is necessary to consider these in discharging the duty under s66(1) PLBCAA.

Statutory Parties or Interested Persons

12. A number of representations have been made by public body consultees. Full details of the comments can be found on the application website at <https://www.gov.uk/guidance/section-62a-planning-application-s62a20230026-land-west-of-robin-hood-road-elsenham>
13. At the Hearing, Dr Mott made oral representations on behalf of Elsenham Parish Council. Both these, and the written representations made by local residents and other consultees, have been taken into account before making the decision here.

Reasons

Demonstrable five year supply of housing land in the local authority area?

14. The Council's Officers' Report to committee (dated 10 January 2024) indicates that although the Council can demonstrate a five year supply of housing land, it is unable to meet the 20% buffer requirement of the most recent iteration of the Framework. As such, for the purposes of this application, it should be considered in the context of Paragraph 11 of the Framework – where policies which are most relevant for determining the application are out of date granting permission unless policies provide a clear reason for refusing the development or any adverse impacts significantly and demonstrably outweigh the benefits.
15. The Applicant does not dispute this position on housing land supply. In the absence of any detailed evidence to the contrary I see no reason to take a different stance to that of the Council, and find that in this case Paragraph 11 of the Framework should be engaged as suggested by the Council.

Effect on highway safety

16. I note the concerns raised by interested parties on the access arrangements proposed in terms of the narrowness of Robin Hood Road near to the access to the site and the potential loss of the existing layby area near to Fullers Level Crossing. No substantive objection has been raised by the local highways authority on either the technical parameters of the proposed works to this highway to facilitate the development of the site for housing, nor any concerns raised over the likelihood of the highway works taking place, nor have any concerns been raised that other regulatory regimes and arrangements exist which would permit this to occur.
17. The changes to Robin Hood Road include the formation of a footpath where none currently exists and a priority traffic management on Robin Hood Road. I heard at the Hearing that traffic movements currently on Robin Hood Road are very low; amounting to a few cars per hour at peak times. This would increase to around 10-12 vehicles at peak times as a result of the proposal. The traffic movements are therefore unlikely to increase to a level which would result in harm to the users of the public highway. Together with the improvements to the highway, which would include the provision of a footpath, I do not find that the proposal would result in any adverse effect on highway safety.
18. Accordingly, it would accord with Policies GEN1 and GEN2 of the LP, which, amongst other aims, seek good design.

Effect on rail safety

19. On Friday 12 January Network Rail indicated that they had concerns over the proximity of the proposal to the Fullers End public footpath level crossing. More detailed information was submitted on 15 and 31 January 2024. On 4 February 2024, Network Rail withdrew its objections to the proposal. There are some further comments provided, which would be of relevance at the details stage of the process for the decision-maker.
20. However, in the absence of an objection from Network Rail, who are responsible for aspects of railway safety, and with little other evidence to suggest that permission should be withheld on this ground, I do not find that the proposal would result in adverse effects on railway safety in this case.

Whether the proposal makes adequate provision for infrastructure, including the provision of affordable housing

21. The Applicant has submitted a completed legal agreement (herein s106) under Section 106 of the TCPA dated 5 February 2024. This secures a number of obligations on the landowners and their successors. The Council and Applicant confirmed at the Hearing that the s106 was complete and all counterparts signed and dated as required. Ultimately, and as indicated in the online guidance in relation to s62A applications, the Local Planning Authority has the responsibility for any enforcement of the s106 and should be satisfied that it is sound in drafting terms.
22. The *Community Infrastructure Levy Regulations 2010* (CIL Regulations) sets out test that need to be met when obligations are sought. The Council have submitted a *CIL Compliance Statement* which briefly indicates the rationale for seeking various obligations for infrastructure. This refers to Policies GEN6, H9, GEN1, GEN2 and GEN7 of the LP, which I have taken into account here.
23. Part 18.1 of the s106 includes what is known as a 'blue pencil clause' meaning that if the appointed Inspector expressly confirms that the provisions of the Deed (that is the obligations) are not compatible with the tests in the CIL Regulations then that provision shall have no legal effect. The Applicant has made submissions both in writing (letter dated 1 February 2024) and orally at the Hearing in terms of whether or not the obligations sought are compatible with the CIL Regulations.
24. To address this, I have sought to approach the obligations sought in the order set out in the *CIL Compliance Statement*.
25. The provision of 40% affordable housing to be provided on site (with 25% First Homes) would comply with Policy H9 of the LP and help ensure that a housing mix is provided that would provide for a variety of housing tenure needs of the local community. This is a benefit of the proposal which weighs significantly and positively in its favour and provides a reason for granting permission. I consider that this obligation would be fairly and reasonably related to the development proposed and passes the statutory tests.
26. The provision of a management company to manage on-site public open space and the provision of the public open space would ensure its provision for future residents and comply with Policy GEN2(c) of the LP. These obligations would be fairly and reasonably related to the development proposed and passes the statutory tests.

27. The contribution sought towards the Community Hall is not necessary or reasonably related in this case. That is because it has not been demonstrated that there is a deficiency or lack of capacity at the community hall. Nor is it clear what the monies sought here would be specifically used for. I note the point made in respect of monies secured from another housing development nearby, but I understand that that related to a specific capital project for the community hall. On the evidence before me I cannot conclude that this obligation would pass the statutory tests in this instance.
28. With regard to the healthcare contribution of £51,580 sought by Hertfordshire and West Essex Integrated Care Board (HWE ICB) a local NHS provider, I note the letter dated 1 February 2024 from the Applicant. This refers me to the Judgement of *R.(oao University Hospitals of Leicester NHS Trust) v Harborough District Council [2023] EWHC 263 (Admin)*. Put simply, the Applicant's view of this Judgement is that the starting point is for the NHS to provide medical provision for new residents, and this is a statutory duty that the NHS has. In the absence of any demonstration of a funding gap linked to the development proposed, I do not find that this obligation would pass the statutory tests.
29. With regard to the education contributions sought by Essex County Council for primary education, it has not been demonstrated how the proposal in this case would give rise to direct impacts on the provision of primary school spaces. As such, it has not been demonstrated that the obligation sought is fairly and reasonably related in scale and kind to the proposal. This obligation does not pass the statutory tests in this case. In terms of secondary education, the Priority Admissions Area would be Forest Hall and I understand that this has unfilled capacity. As such, it has not been demonstrated how the contribution sought of £213,736 (index linked) is necessary and fairly related to the development proposed when there is unfilled capacity locally. Accordingly, this obligation does not pass the statutory tests in this case.
30. The library contribution sought would assist in providing future residents access to library services. This is directly related to the number of dwellings on the proposed development and would comply with Policy GEN6 of the LP and the Essex County Council Developers Guide to Infrastructure Contributions 2020. As such, this obligation would pass the tests of being necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
31. The obligations sought in respect of Sustainable Transport Contribution and Residential Travel Information Packs are directly related to the proposal and would assist in promoting sustainable travel by future residents. They would therefore accord with the statutory tests.
32. The obligations sought for monitoring fees by Essex County Council and Uttlesford District Council would be fairly and reasonably relate in scale and kind to the development. They would also be proportionate in relation to the authority's estimated cost of monitoring the development over the lifetime of the planning obligations which relate to the development.
33. In light of these findings, since the obligations relating to the community hall, HWE ICB in relation to NHS services, and education fail to meet one or more of the tests set out in CIL Regulation 122, I am unable to take them into account in determining the application. I give significant weight to the obligations for affordable housing, the provision and management of public open space on

site, the library contribution, and the sustainable transport and travel information pack.

Heritage

34. I note that nearby listed buildings to the application site include Wells Cottage, 4, Wells Cottage, 2, Wells Cottage, 1 and Robin Hood Public House as identified by the Council's Heritage Officer. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, sets out that special regard shall be had to preserve the setting of these.
35. The significance of these lies primarily in their architectural features and historical association with the settlement of Elsenham. This would remain unchanged. I acknowledge the points made in terms of the lack of foundations at some of these listed buildings and the potential damage to the building from traffic movements. However, should this occur with the very low levels of traffic movements, this would not result in harm to the significance of these heritage assets. Accordingly, I find that, at the very least, the proposal would preserve the setting of these nearby listed buildings. It would, therefore, accord with Policy ENV2 of the LP.

Other Matters

36. A number of concerns have been raised by interested parties, many of which I have considered in the above reasoning; including the desire to secure monies for the community hall, highway safety, impact on heritage assets, and housing land supply. I also note that concerns have been raised in respect of matters such as flood risk and the creation of a pond on site. However, these are both matters which can be satisfactorily dealt with by imposition of planning conditions, as suggested by the Local Lead Flood Authority and MAG Safeguarding body, responsible for Stansted Airport.
37. In considering these individually and cumulatively, I do not find that these other matters provide justification for the refusal of permission in this instance.

The benefits of the proposal and compliance with the development plan

38. The proposed development would provide up to 40 dwellings, including affordable homes. It would also provide biodiversity enhancements on a currently unmanaged site and economic benefits in the form of jobs during the construction phase.
39. In respect of Policy S7, the site is located on the edge of Elsenham, between existing residential development and the mainline railway that is served by Fullers Level Crossing. The principle of its use for much needed housing in an area that has a shortfall in deliverable housing land supply as a special reason is established by the earlier appeal for the site (reference 3242550). There is little before me that suggests that this same approach is not applicable in this instance.
40. Whilst there would be a small conflict with Policy S7, which seeks to protect the countryside for its own sake, it accords with the adopted development plan when considered as a whole, including compliance with policies such as GEN1, GEN2, H9, and ENV2.

Conditions

41. The designated planning authority and Applicant have provided a list of suggested conditions. This includes a re-ordering of those suggested and an assimilation of some conditions relating to flood risk and drainage which have been consolidated at the Applicant's suggestion. The conditions were discussed at the Hearing. In addition to all the information before me, I have taken these suggested conditions and the comments relating to them into account in reaching my decision.
42. Article 24 (1) (a) of *The Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013* (SI 2013 No. 2140) sets out that where planning permission is granted subject to conditions, (as is the case here) the notice must state clearly and precisely the full reasons for each condition imposed. This has been provided here under each condition imposed within the decision notice section of this document. In considering the conditions to impose I have taken into account Paragraphs 55 and 56 of the Framework and the guidance set out in the national Planning Practice Guidance and the use of planning conditions.
43. In accordance with Section 100ZA of the TCPA, the Applicant confirmed their agreement to the use of pre-commencement conditions where these meet the tests of Paragraph 56 of the Framework.

Planning balance and Conclusions

44. There is no identified conflict with the adopted development plan when considered as a whole, and there are no material considerations that indicate a decision otherwise than in accordance with it. Furthermore, the proposal would align with national policies set out in the Framework, including those set out in Paragraph 11.
45. The proposal would clearly result in wider benefits including the creation of market and affordable housing, biodiversity gains and some economic benefits during construction. I afford these benefits very significant weight in favour of the proposal.
46. Correspondingly, I conclude that planning permission should be granted subject to conditions; the reasons for which are clearly and precisely set out under each condition imposed in the decision notice.

C Parker

INSPECTOR (appointed person for the purposes of s62A and s76D TCPA)

APPEARANCES

FOR THE APPLICANT:

Killian Garvey, Barrister
Frazer Hickling
Philip Taylor
John Gregory

Instructed by Frazer Hickling
Planning matters
Highway matters
Solicitor – available for s106 matters.

FOR THE DESIGNATED LOCAL PLANNING AUTHORITY:

Rachel Beale	Senior Planning Officer, Uttlesford District Council
Rachel McKeown	Strategic Development Engineer, Essex County Council Highways Services

INTERESTED PERSONS:

Dr Graham Mott	Chairman - Elsenham Parish Council
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Documents submitted at Hearing:

HD1 – Address to Planning Inspectorate Hearing, 6 February 2024, made by Dr Graham Mott, Chairman of Elsenham Parish Council

Decision Notice

Reference: s62A/2023/0026

Planning permission is granted for Outline application for the erection of up to 40 dwellings with all matters reserved except for access at Land west of Robin Hood Road, Elsenham in accordance with the terms of the application, Ref s62A/2023/0026, dated 13 October 2023, with a valid date of 28 November 2023, subject to the following conditions:

1. Details of the appearance, landscaping, layout, scale, and access (internal road and footpath details), hereafter called 'the reserved matters', shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: In accordance with Article 5 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission; and the development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.

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

Approved Drawings

3. The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location Plan (Drawing Ref: BW289a-PL-01 Rev 00 (Rosconn))
Site Access Arrangements (Drawing Ref: DWG-06 (Savoy Consulting)).

Reason: For certainty and to ensure that the development is carried out in accordance with the approved plans and details.

Pre-commencement conditions

4. No development shall take place until the Developer has submitted to the Local Planning Authority for approval, in consultation with the local highway authority, details relating to the provision of a pedestrian footway, minimum width 2m from the site access on Robin Hood Road to the north-east corner of the site and the junction of Rush Lane and Robin Hood Road. Details to include any relocation or provision of signage, lighting, utilities, drainage,

associated resurfacing or works to the existing carriageway to facilitate the overall highways scheme. Once approved, the development shall not be occupied until such time as all approved works have been completed.

Reason: To ensure safe and suitable access to key facilities for pedestrians in accordance with policy DM1 and DM9 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

5. No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and shall be retained in that manner thereafter. The scheme should include but not be limited to:
- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753;
 - Limiting discharge rates to 6.5 l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change;
 - Provide sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event;
 - Demonstrate that all storage features can half empty within 24 hours for the 1:100 plus 40% climate change critical storm event;
 - Final modelling and calculations for all areas of the drainage system;
 - The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753;
 - Detailed engineering drawings of each component of the drainage scheme;
 - A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features;
 - A written report summarising the final strategy and highlighting any minor changes to the approved strategy, and;
 - Details of maintenance and management arrangements.

The development shall be carried out in complete accordance with the approved details.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development. To provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to

increased flood risk and pollution hazard from the site. In accordance with Paragraphs 167, 173 and 174 of the National Planning Policy Framework (December 2023).

6. No development shall take place until a Reptile Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To allow the Local Planning Authority to discharge its duties under the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) in accordance with ULP Policy GEN7 of the Uttlesford Local Plan (adopted 2005).

7. No development shall take place until a Biodiversity Enhancement Strategy has been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To enhance protected and Priority species & habitats and allow the local planning authority to discharge its duties under the National Planning Policy Framework (2023) and s40 of the NERC Act 2006 (Priority habitats & species) in accordance with ULP Policy GEN7 of the Uttlesford Local Plan (adopted 2005).

8. No development shall take place, including any ground works or demolition, until a Construction and Environment Method Statement has been submitted to, and approved in writing by, the local planning authority, in consultation with the highway authority. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - a) vehicle routing, access during construction and manoeuvring
 - b) the parking of vehicles of site operatives and visitors
 - c) loading and unloading of plant and materials
 - d) storage of plant and materials used in constructing the development
 - e) wheel and underbody cleaning facilities
 - f) treatment and protection of public rights of way during construction
 - g) dust mitigation and management measures
 - h) details of a complaints procedure with a designated person on site responsible for complaint handling
 - i) hours of working.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and in accordance with Policy DM1 of the Highway Authority's Development Management Policies February 2011, and in the interests of the amenity of surrounding locality residential premises in accordance with Policies GEN2, and GEN4 of the Uttlesford District Council Local Plan as Adopted (2005), and the national Planning Policy Guidance (2023).

9. No development shall take place until a scheme to deal with contamination of land/ground gas/controlled waters has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details. The scheme shall include all of the following measures, unless the Local Planning Authority dispenses with any such requirement in writing:
- A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175: 2011 Investigation of Potentially Contaminated Sites – Code of Practice.
 - A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.
 - A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.
 - If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the Local Planning Authority.
 - No dwelling shall be occupied until a validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology has been submitted and approved in writing. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included in the validation report, together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To protect human health and to ensure that no future investigation is required under Part 2A of the Environmental Protection Act 1990 and in the interest of human health in accordance with Policy ENV14 of the Adopted Local Plan (2005) and the National Planning Policy Framework (2023).

10. No development shall take place until a programme of archaeological trial trenching has been secured and undertaken in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority prior to reserved matters applications being submitted.
- A mitigation strategy detailing the excavation/preservation strategy shall be submitted to the local planning authority following the completion of this work.
 - No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion

of fieldwork, as detailed in the mitigation strategy, and which has been signed off by the local planning authority through its historic environment advisors.

- No dwelling shall be occupied until a post excavation assessment has been submitted to and approved in writing by the local planning authority. The assessment must be submitted within three months of the completion of fieldwork, unless otherwise agreed in advance with the Local Planning Authority. This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: To ensure the appropriate investigation of archaeological remains, in accordance with Policy ENV4 of the Uttlesford Local Plan (2005) and the National Planning Policy Framework (2023).

Pre-occupation conditions

- 11.No dwelling shall be occupied until a vehicular access with 5.5m wide carriageway and 2no. 2m wide footways, as shown in principle on submitted drawing DWG-06 has been provided. The access works shall include clear-to-ground visibility splays of 2.4m by 33m to the north and 2.4m by 24m to the south. Such vehicular visibility splays shall be retained free of any obstruction at all times thereafter.

Reason: To provide a safe access for all users and ensure that vehicles can enter and leave the highway in a controlled manner with adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 12.No dwelling shall be occupied until a pedestrian connection between the development and Public Footpath 28 (Elsenham 13), details of which shall first have been submitted to and agreed in writing with the local planning authority, shall be provided and retained thereafter.

Reason: To ensure the continued safe passage of pedestrians on the public right of way and accessibility and ensuring an appropriate walking network in accordance with Policies DM1, DM9 and DM11 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 13.No dwelling shall be occupied until a scheme of noise mitigation measures shall be submitted in writing to the local planning authority for approval. The scheme shall follow all recommendations identified in the Resound Acoustics Noise & Vibration Assessment report (Ref: RA00562-Rep 1) dated January 2019. None of the dwellings shall be occupied until such a scheme has been implemented in accordance with the approved measures which shall be retained thereafter.

Reason: To ensure future occupiers enjoy a good acoustic environment, in accordance with Policy ENV10 of the Uttlesford Local Plan (2005) which requires appropriate noise mitigation and sound proofing to noise sensitive development, and the National Planning Policy Framework (2023).

- 14.No dwelling shall be occupied until all mitigation and enhancement measures and/or works have been carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Cotswold Wildlife Surveys, September 2019) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To conserve and enhance protected and Priority species and allow the Local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) in accordance with Policy GEN7 of the Uttlesford Local Plan (adopted 2005).

Other conditions

- 15.As part of the reserved matters for layout, each dwelling hereby approved shall be provided with an electric vehicle charging point. Once provided the charging points shall be retained thereafter.

Reason: To minimise the impact of development on air quality by providing infrastructure to support the use of plug-in and other ultra-low emission vehicles in accordance with Policy ENV13 of the Uttlesford District Local Plan (2005) and Paragraph 116 of the National Planning Policy Framework (2023).

- 16.As part of the reserved matters for layout, 5% of the dwellings approved by this permission shall be built to Category 3 (wheelchair user) housing M4 (3)(2)(a) wheelchair adaptable. The remaining dwellings approved by this permission shall be built to Category 2: Accessible and adaptable dwellings M4 (2) of the Building Regulations 2010 Approved Document M, Volume 2015 edition.

Reason: To ensure compliance with Policy GEN2 (c) of the Uttlesford Local Plan (2005) and the subsequent SPD on Accessible Homes and Playspace, and paragraph 135 of the National Planning Policy Framework (2023).

- 17.As part of the reserved matters for landscape, the open water is either to be removed from the attenuation proposals; or if this is not possible, it should be planted with Common Reed, or planted with a dense margin of emergent vegetation and surrounded by trees such as willow or alder to obscure the open aspect of the water. Such planting shall be retained thereafter to ensure that the obscured open aspect of the water is maintained in such state.

Reason: To safeguard and enhance the character and amenity of the area, in accordance with Policies S7, GEN 2 and ENV 8 of Uttlesford Local Plan

(2005), and the National Planning Policy Framework (2023), and to protect flight safety by minimising the risk of bird strike to aircraft using Stansted Airport.

***** END OF CONDITIONS *****

Informatives:

- i. In determining this application, the Planning Inspectorate, on behalf of the Secretary of State, has worked with the applicant in a positive and proactive manner. In doing so, no substantial problems arose which required the Planning Inspectorate, on behalf of the Secretary of State, to work with the applicant to seek any solutions.*
- ii. The decision of the appointed person (acting on behalf of the Secretary of State) on an application under section 62A of the Town and Country Planning Act 1990 ('the Act') is final. An application to the High Court under s288(1) of the Town and Country Planning Act 1990 is the only way in which the decision made on an application under Section 62A can be challenged. An application must be made promptly within 6 weeks of the date of the decision.*
- iii. These notes are provided for guidance only. A person who thinks they may have grounds for challenging this decision is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655) or follow this link: <https://www.gov.uk/courts-tribunals/planning-court>.*

***** END OF INFORMATIVES *****