

## Decision Notice and Statement of Reasons

Site visit made on 19 February 2024

Hearing held on 20 February 2024

**By Ben Plenty BSc (Hons) DipTP MRTPI**

**A person appointed by the Secretary of State**

**Decision date: 4 March 2024**

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**Application Reference: S62A/2023/0023**

**Site address:** Eastfield Stables, May Walk, Elsenham Road, Stansted, Essex CM24 8SS

- The application is made under section 62A of the Town and Country Planning Act 1990.
  - The site is located within the administrative area of Uttlesford District Council.
  - The application dated 22 August 2023 is made by Stuart Richardson, NB Investments UK Ltd and was validated on 13 October 2023.
  - The development proposed is the Erection of 5 residential dwellings and associated infrastructure.
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### Decision

1. Planning permission is refused for the development described above, for the following reasons:
  - 1) The proposal, by reason of its location, residential use and accessibility to goods and services, would not offer genuine choice of access to sustainable travel modes and would be reliant on the use of the private car. It would therefore be poorly located. Accordingly, the proposal would fail to comply with policy GEN1(e), of the adopted Uttlesford Local Plan [2005], and the National Planning Policy Framework.
  - 2) The proposed development, due to its siting, scale and appearance would harm the rural character of the site to the detriment of its open character and appearance and the surrounding countryside. The proposal would fail to recognise the intrinsic character and beauty of the countryside or be sympathetic to local character. Therefore, the proposal would fail to comply with policies S7 and GEN2, of the adopted Uttlesford Local Plan [2005], and the National Planning Policy Framework
  - 3) The proposed housing density of the scheme would represent an inefficient use of the land, which would hamper the continuous achievement of an appropriate supply of housing in the district, on

suitable sites and would fail to make efficient use of the land. Therefore, the proposal would be contrary to paragraphs 123, 124(d), 128 and 129(c) of the National Planning Policy Framework.

## **Statement of Reasons**

### **Procedural matters**

2. The application was made under Section 62A of the Town and Country Planning Act 1990, which allows for applications to be made directly to the Planning Inspectorate where a Council has been designated by the Secretary of State. Uttlesford District Council have been designated for major applications since February 2022.
3. Following screening, by the Planning Inspectorate under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended), it was found that the proposed development would not be of a scale or nature likely to give rise to significant adverse effects. Therefore, an Environmental Impact Assessment was not required, and I am satisfied that the requirements of the Regulations have been complied with.
4. Consultation was undertaken on 19 October 2023 which allowed for responses by 24 November. Responses were received from the parties listed in Appendix 1 of this statement. A number of interested parties and local residents also submitted responses.
5. Uttlesford District Council submitted an officer report and minutes following a planning committee meeting on 22 November. The consultation response summarises these documents and sets out the Council's objections to the proposed development on a number of grounds.
6. Some of the consultation responses raised issues that required further information. These include responses from the Lead Local Flood Authority and the Council's Housing Officer. Having regard to the Wheatcroft Principles and of Holborn Studios Ltd<sup>1</sup>, I accepted additional plans and information dated 14 November in response to those comments and a targeted re-consultation of the relevant consultee and Council only was carried out. The first of these additional submissions, the applicant's Financial Viability Assessment led to the agreement of an extension of time to the determination period to 19 March 2024.
7. I carried out an accompanied site visit, the day before the hearing, which enabled me to view the site, the surrounding area and the nearby roads and public rights of way.
8. On 12 February I published an Issues Report, prepared under the provisions of the Town and Country Planning (Section 62A Applications) (Hearings) Rules 2013. This included a description of the development, consultation details and material considerations, and explored the main issues to be considered in relation to the application. In addition to that

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<sup>1</sup> *Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)*

report, I set out an agenda for the public hearing. This was held on 20 February at the Council's offices in Saffron Walden, attended by an officer of the Council, and representatives of the applicant. I requested further documents, listed in appendix 2 of this decision.

9. Prior to the hearing I received a certified copy of a Unilateral Undertaking (UU) under section 106 (s106) of the Town and Country Planning Act 1990 from the applicant which covers the obligation relating to an off-site financial contribution towards affordable housing. It is a requirement of the obligation to comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the CIL regs). I consider whether the obligation in the UU meets the tests set out in the National Planning Policy Framework (the framework) and would satisfy the requirements of the CIL regs later in this statement.
10. In determining this application, the Planning Inspectorate has worked with the applicant in a positive and proactive manner to seek solutions to problems arising in relation to dealing with the planning application. In doing so, the Planning Inspectorate gave clear advice of the expectation and requirements for the submission of documents and information, ensured consultation responses were published in good time, gave clear deadlines for submissions and responses, and accepted amendments submitted by the applicant in response to the matters raised during consultation.
11. I have taken account of all written and oral representations in reaching my decision.

### **Main Issues**

12. Having regard to the application, the consultation responses, comments from interested parties, the Council's report and Committee resolution, together with what I saw on site and heard at the hearing, the main issues for this application are:
  - whether the location of the development would accord with local and national policy;
  - the effect of the development on the character and appearance of the area; and
  - whether the proposal would make efficient use of land, with particular regard to the density of housing.

### **Reasons**

#### *Planning History and Background*

13. The application site is the central part of a wider area of land that includes converted agricultural buildings within its northern quarter and a Wellness Hub found adjacent to the southern boundary. The Council's officer report details an extensive planning history that includes a number of appeal

decisions across the wider area and the application site. Of particular note this includes several approved applications for the conversion of former agricultural/stable buildings into dwellings and a garage block to the east of the main cluster of northern buildings.

14. In regard to appeal decisions, the site includes an appeal allowed for a change of use from stable to residential use, the Wellness Hub and two further dwellings. The site has also been subject to dismissed appeals for a new stable building and two housing estates of 5 and 11 units.
15. The site is outside the development limits of Elsenham, the nearest settlement, where limited infilling can be allowed by LP policy H3, subject to meeting certain criteria. The site does not contain designated heritage assets and is not within a conservation area. It is outside any landscape or Green Belt designations. The site is within the proximity of Down Farmhouse, a grade II listed building.

#### *Location and Principle of Development*

16. Being outside the development limits of Elsenham the site is situated in the countryside for policy purposes. In the countryside, saved policy S7 of the Uttlesford Local Plan [2005] (LP) is restrictive of new development. This is one of the most important policies for determining the application. The policy can be disaggregated into three main sections. The first two state that the countryside will be protected for its own sake and that planning permission will only be given for development that needs to take place there or is appropriate in a rural area. The third part relates to character and appearance which is broadly consistent with the Framework, which I will return to in the second main issue.
17. The Council's recent review of its Plan identified that the first two sections of LP saved policy S7 are not consistent with the Framework. This is as the Framework supports housing development in rural locations where it responds to local circumstances, reflects local needs and would assist the vitality of rural communities. The Framework also promotes sustainable travel where opportunities to promote walking, cycling and public transport should be pursued. Although, it also recognises that opportunities to maximise sustainable travel will vary between urban and rural locations. Therefore, the locational parts of LP saved policy S7 are inconsistent with the Framework. Nonetheless, LP policy GEN1(e) encourages movement by means other than driving a car. This is consistent with the Framework which requires the planning system to maximise sustainable transport solutions.
18. Housing development at a site on Isabel Drive is currently under construction for 99 dwellings. This has extended Elsenham westwards towards the M11 and the site. Nonetheless, the application site is separated from Elsenham, by several fields and the M11 which sits within a tree lined cutting. The motorway and fields beyond, show a clear transition of change of land use from built form to the open countryside where only dispersed development in a rural setting exists. This separation and sense of

transition means that the scheme would be locationally divorced from the built limits of the settlement.

19. Elsenham and Stanstead Mountfitchet include a wide range of services and facilities and main line railway stations. The site is adjacent to the B1051. This road includes a footway that provides pedestrian links to Stanstead Mountfitchet and Elsenham. The nearest bus stop is adjacent to Franklin Drive. This is around 300m from the site's entrance and provides a regular, but infrequent service, providing moderately accessible routes to sustainable forms of transport. The site is within a 20-minute walk of a doctor's surgery and primary school.
20. The B1051 is subject to a 60 mph speed restriction. As such, pedestrians using the footway would experience, as I did during my site visit, that passing vehicles are fast and create a relatively hostile walking or cycling environment. This effect, coupled with the narrow footpath and absence of street lighting, would deter users from making significant use of the footpath, especially in inclement weather and at night. This erodes much of the accessibility benefits of the site's proximity to Elsenham, which I have therefore found to be of only moderate benefit.
21. The proposed development would be set away from the settlement boundary of Elsenham. It would be substantially further from goods and services available in Elsenham than the approved housing development of Isabel Drive. In that case the Inspector found the site to be in an acceptable walking distance of shops and services, despite its peripheral location. As such, the site has a modest functional link with this settlement providing a walking route to the settlement and bus stops, only during the day. Future occupiers would therefore be likely to travel using a private car, even if some of these journeys would be relatively short. Therefore, despite its relative proximity to Elsenham, the site would gain limited accessibility to sustainable travel.
22. This view was shared by a previous Inspector for a scheme on the site for 11 dwellings that was dismissed<sup>2</sup> in 2021. In that case, the Inspector found that the scheme was poorly located for residential development, with a narrow footpath link and poorly developed sustainable transport links. I am unpersuaded that the sustainable travel characteristics have materially improved to demonstrate that the situation has changed.

### Infilling

23. LP saved policy H3, allows for limited infilling within development limits subject to certain criteria. This is therefore not directly relevant to the proposal but demonstrates that Elsenham is a settlement of sufficient size to be suitable, in policy terms, for infilling. Paragraph 6.14 explains that infilling outside development limits would be considered in the context of LP policy S7. It states that if there are opportunities for sensitive infilling of small gaps, in small groups of dwellings outside development limits but close to settlements, these will be acceptable if the scheme would be in

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<sup>2</sup> Planning Appeal Reference: APP/C1570/W/21/3271985

character with the surroundings and have a limited impact on the countryside.

24. Infilling is not defined by the Development Plan. However, the planning Portal defines infill development as “The development of a relatively small gap between existing buildings”. This definition seems to be a reasonable starting point when considering this matter. Accordingly, the question of infilling is a matter of planning judgement, taking into account the size and location of the development and its relationship to existing built form.
25. The application site is a relatively spacious parcel of land. It is located between the wellness hub to the south and the converted buildings to its north. Although between buildings, the proposal would only have a loose-linked relationship with these. The scheme would be disconnected from existing buildings, arranged in an inward-looking estate of five dwellings. It would not extend the form or arrangement of existing development and therefore relate poorly to both the converted buildings and the Wellness Hub. Furthermore, the site could not be considered as small, it would encompass around 60% of the middle of the large site with five spacious plots, which are substantially larger than adjacent residential plots. As such, whilst I am unconvinced that an infill site would need to be along a road frontage, as suggested by the Council, it would nonetheless not be an infill site.
26. Accordingly, the proposal would not be located in a suitable location. The proposed development would conflict with LP policy GEN1(e) and the Framework. These seek development, *inter alia*, to encourage movement by means other than driving a car and for decision makers to actively manage growth and sustainable travel in promoting walking, cycling and public transport, through limiting the need to travel and offering a genuine choice of transport modes.

#### *Character and Appearance*

27. The site is within the River Valley Landscape area as designated by the Essex County Landscape Character Assessment [2003]. This character area consists of a range of topographical types including intimate tree lined valleys and organic field shapes. The Council’s Landscape Character Assessment [2006] identifies the site as being within the Broxted Farmland Plateau. It’s key characteristics include gently undulating farmland, large open landscapes and dispersed settlements. The site contributes to this open landscape with a largely undeveloped form and with perimeter trees that visually connect it to surrounding woodland areas to the west.
28. The application site is part of a larger field that contains converted barns to the north, now largely in residential use, and a wellness hub in the south. The site is largely screened from surrounding public views, but maintains an open character being a grassed field without built form. The open character of the site has been identified in a number of recent appeal decisions including in respect to the 11 scheme appeal and an appeal<sup>3</sup> for 5

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<sup>3</sup> Planning appeal reference: APP/C1570/W/19/3228484

dwellings. In both appeals the Inspectors identify the importance of the openness of the site and its contribution to the character of the surrounding area, consisting of open countryside, with agricultural use and scattered dwellings.

29. The proposed development would consist of five similar bungalows, set within spacious grounds. The indicative landscape scheme demonstrates that these would be partially screened by new landscaping and would also include a tree lined route through the site. The dwellings would have large footprints and would be arranged along a curved roadway, forming a dispersed and sinuous pattern of development. This would have no clear design relationship with the existing converted buildings to the immediate north of the site.
30. Therefore, whilst the dwellings are described as reflecting the equestrian stable style of existing buildings on site, such an objective would be eroded by the scale and configuration of the plots and dwellings within each. Accordingly, these would not act as a natural extension of the form or style of the converted buildings to the north which are regimented and form a close-knit development by comparison. As such, the proposal would have a suburban character that would be out of keeping with the form of existing neighbouring development and fails to take the opportunities available for improving the character and quality of the area and the way that it functions.
31. In terms of visual effects, sensitive receptors include residents of Eastfield Stables, users of the adjacent bridleway and passing motorists, walkers and cyclists of the B1051. Given the proximity of the site to the bridleway and the on-site residential properties the overall change for these receptors would be medium to high. The applicant's Landscape and Visual Appraisal (LVA) finds that whilst the site contains a number of features which make a positive contribution to the character of the site and its surroundings, it is considered to have a low to medium landscape value. Due to the enclosed nature of the site, I generally concur with this view. However, the presence of converted agricultural buildings, associated buildings and the Wellness Hub do not materially erode the open landscape character of the site despite its secluded position.
32. Furthermore, the extent of screening around the sites perimeter does not reduce the site's rural and open character. The proposed development would occupy the central section of the field with built form. This would consist of dwellings with large footprints, broad roofs and connecting roadways. In combination with the anticipated domestic equipment and structures common on residential plots, this would erode the site's sense of spaciousness and its rural character.
33. At the time of my visit, I noted deciduous trees and hedges were not in leaf. This enabled relatively open views into the site. My visit followed the key viewpoint locations identified in the LVA. Views from the PROW to the rear of the site revealed that the site, and the existing buildings within it, are screened by a combination of topography and tree and hedge planting. However, views alongside the Bridleway were clearer, despite the existence

of an earth bund and vegetative screening, where views of plot 5 and the store building could be observed. Moreover, the Wellness hub could be clearly seen through the trees near the southern corner of the site.

34. Viewpoints along the B1051, covering VPs 12-14, provide distant and wide views of the site edge. From these views the roofs of May Tree Farm (outside the site) and the Wellness Hub could be clearly seen through the trees when travelling toward the site. Although views from motorists would be fleeting and brief, views from this vantage to pedestrians and cyclists would be protracted. It seems likely that the proposed development would be as overt in these views as the existing Wellness building but would have a broader effect by encompassing a wide central section of the site.
35. Views into the site from the footpath to the immediate south of the site, VPs 1-4, would take in the relatively exposed frontage through tall trees and beyond the Wellness Hub. These views would be relatively clear to passing sensitive receptors. I am unconvinced that additional landscaping would fully screen all development and would have limited screening effect on long views from VPs 12-14. Although views would be more screened in summer months this would not provide a year-round screen.
36. Taking the visual impacts of the scheme from all viewpoints together, the proposed development would be seen in a number of public views that would reveal a collection of roofs in a currently largely open setting. The impact of such views in this rural location would be moderately harmful, being partially mitigated by the extent of screening and the existing earth bund alongside the bridleway. Therefore, the visual effect of the development would result in moderate visual harm and even though the site is relatively well screened, this would not mitigate the visual harm found.
37. Accordingly, the proposal would result in moderate visual harm and significant harm to the character of the area, resulting in a combined harm to the character and appearance of the area. The proposal would therefore conflict with LP policy GEN2 and the third part of LP policy S7. These seek, among other matters, for development to protect or enhance the character of the countryside and be compatible with the scale, form and layout of surrounding buildings. The proposal would also fail to comply with paragraphs 128 and 135 of the Framework which seek to maintain an area's prevailing character and setting, be visually attractive as a result of architecture and layout and be sympathetic to local character.
38. Although each case must be considered on its own merits, I am cognizant that the adverse impact of development on the application site was shared by the Inspector of the appeal for 11 dwellings, finding that the proposal would have an adverse impact on the rural character and openness of the site. Furthermore, the appeal dismissed in 2019 for 5 dwellings in the northern corner of the field, the Inspector also found harm to the open character and appearance of the site.

### *Efficiency of land use*

39. The Framework requires development to make efficient use of land and seeks development to encourage multiple benefits. The proposed development would consist of large bungalows, which would be around twice the size of the minimum size requirement established in the Nationally Described Space Standards. The proposal would have a density of between 2.5 and 2.35 dwellings per hectare (dph), which would be deemed to be extremely low in comparison to the converted buildings to the north of the site, that the Council indicates as being around 12 dph. As such, the proposed density would not relate well to existing adjacent development.
40. In seeking development that achieves appropriate densities, paragraph 128 of the Framework refers to five criteria that should be considered. This relates to consideration of the identified need for different types of housing, local market conditions and viability, the availability of infrastructure, the need to maintain and areas character, and the importance of securing well designed and beautiful, attractive and healthy places.
41. The low density of the proposed development would ensure that occupiers would have access to kitchen gardens, space within the dwelling for a home office, an ability to achieve a strong rural connection between their home and the surrounding environment. However, these gains could easily be delivered on site with smaller plots and smaller bungalows without necessarily conveying a greater adverse impact on the character and appearance of the area.
42. In terms of the identified need for this type of housing the Council's Housing Needs Strategies [2016-2021 and 2021-2026] (for the abandoned emerging Local Plan) provided evidence for house types. These identified a requirement for 1-2 bed bungalows, predominantly to provide for the elderly, and sought a 5% provision of bungalows on all market led sites. Although of extremely limited weight this provides a useful understanding of the Council's previous objectives with respect to the provision of bungalows. Moreover, the Local Housing Need Assessment [2023], in support of the Housing policies of the emerging Local Plan, identifies that around 10% of its housing stock are bungalows, and in discussion with local estate agents, unmet demand exists.
43. The provision of housing in the form of bungalows is a noted benefit of the scheme, insomuch as it would provide homes that would appeal to a range of users including families, the elderly and wheelchair users. Nonetheless, bungalows should be in a suitable location where occupiers can readily access goods and services. As such, this benefit is diminished due to the site's poor connectivity to nearby settlements, with an absence of lighting and being some distance from goods and services as obstacles for future footway users. As such, the need for bungalows, as a driver for the proposed low-density scheme, is of limited weight in support of the scheme.

44. Furthermore, I have already concluded that the proposal would not be in character with nearby development and the wider countryside and that the site would have only moderate access to local infrastructure. As such, the Framework's objectives with respect to density, as set out at paragraph 128, have not been satisfied.
45. Accordingly, the proposal would not make efficient use of the site, with an extremely low density of development that fails to capitalize on the space available in an efficient manner. As such, the proposal would fail to comply with paragraphs 123, 124(d), 128 and 129(c) of the Framework. These seek decisions to promote the effective use of land, support the development of under-utilised land (especially where land supply is constrained) and to achieve appropriate densities taking the need for different types of housing into account.

## **Other Matters**

### *Five-year Housing Land Supply*

46. The Council could not demonstrate it had a 5-year (Housing Land Supply) HLS, in December 2022 of 4.89 years. More recently, the Council's position statement, published 9 October 2023, demonstrated that it had a HLS figure of 5.14 years, including a 5% buffer. However, most recently the Council's Housing Delivery Test (published December 2023) demonstrates that it delivered housing at a rate of only 58% of its required supply over the preceding three year period (2019-2022). Where delivery falls below 75% of the requirement over the relevant previous three years, the presumption in favour of sustainable development applies and a 20% buffer must be applied. Based on these matters the Council can now only provide a 4.5 year HLS. In this context, the supply of further housing is an important material consideration.
47. The Appeal Decision<sup>4</sup> for Isabel Drive identified that most of the Council's allocated housing sites had been completed, meaning that the Council would be reliant on most future housing sites coming forward on land beyond existing settlement limits as windfall sites. Due to the Council's 5 year HLS position, its Housing Delivery Test result and the status of its emerging plan the Council's lack of a 5 year supply is a significant matter.

### *Previous Planning Decisions*

48. I have had regard to the appeal decisions submitted by both the Council and the applicant. I note that an appeal for a proposal at Eastfield Stables, for a change of use and extensions to a feed store, was allowed at appeal<sup>5</sup> in 2019. The Inspector found that the converted building would retain its agricultural character, complement the other buildings within the cluster and would not diminish the rural character of the site.

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<sup>4</sup> Planning Appeal Decision: APP/C1570/W/20/3256109

<sup>5</sup> Planning Appeal Reference: APP/C1570/W/19/3233459

49. Further, a scheme for two dwellings was also approved at appeal<sup>6</sup>. This was amongst existing built form where the Inspector found that the proposal would consist of conversion rather than new build and would not harm the character and appearance of the area. These schemes made minor adjustments to the existing built form and were enclosed within the group of existing former agricultural/equestrian buildings to the north of the site. It was found these caused no harm to the open character of the application site or the cluster of surrounding buildings. These decisions, and other allowed development within the northern part of the field, are therefore of limited weight in my consideration of the effects of the proposed scheme.
50. The scheme at Isabel Drive was allowed at appeal<sup>7</sup> for 99 dwellings. It consisted of Sites A and B, where Site B is adjacent and alongside the M11 cutting. These seem to be relatively natural extensions to the eastern side of Elsenham. The applicant has also drawn my attention to a number of large residential schemes that have been allowed at appeal and others that have been approved by the Council. These are predominantly clustered around Stansted Mountfitchet and Elsenham. The appeal decisions demonstrate that upon engaging the tilted balance, previous Inspectors have allowed development finding that the identified harms did not significantly and demonstrable outweigh the benefits.
51. Although each case must be considered on its own merits, I note that the allowed and approved sites have a strong physical connection to existing settlements. Furthermore, being for greater numbers of dwellings than the application scheme, these would have significantly aided the local supply of housing, attributing significant weight in the planning balance. The approved schemes are therefore materially different to the current scheme.

#### *Heritage assets*

52. The site is to the north of the grade II Down Farmhouse, on the opposite side of the B1051. As the proposed development relates to the setting of a listed building, I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced, noting that the extent is not fixed and may change as the asset and its surroundings evolve. The significance of the listed building, a traditional two-storey farmhouse, appears to relate to its traditional rural character in a countryside setting.
53. The building is set back from the B1051 a substantial distance and is only partially visible from the highway due to tree and hedge screening. This screening plus the screening to the front of the application site, in combination with the sizeable separation distance would mean that the setting of the listed building would be preserved.

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<sup>6</sup> Planning Appeal Reference: APP/C1570/21/3277858

<sup>7</sup> Planning Appeal Reference: APP/C1570/W/20/3256109

### *Highway safety*

54. Interested parties have raised concerns with respect to the effect of the proposal on highway safety. A resident has commented that the traffic survey does not take into account the 1000 homes approved in Elsenham. However, the proposed scheme would attract only a small number of vehicle movements that would have a limited effect on traffic patterns on local roads. Furthermore, the access provides good visibility in both directions that enables vehicles to exit the site in a safe manner. I therefore find that the use of the access would be safe, and the impact on the highway would be minimal, resulting in no adverse effect on highway safety, a conclusion shared by the Highway Authority.

### *Wildlife*

55. Local residents have referred to the wildlife value of the site, noting that it is important for wildlife with buzzards, red kites, sparrow hawks and kestrels seen hunting on this land. The applicant's Preliminary Ecological Appraisal found that the habitats found on-site are common and widespread throughout the UK. It concluded that the likelihood of protected species being found on site is negligible and no further investigation would be needed. It makes a number of recommendations to protect wildlife during construction and suggests that a range of ecological enhancement measures be included. The Council's ecologist raised no objection to the scheme subject to the imposition of three conditions with respect to biodiversity mitigation and enhancement measures. I see no reason to disagree with these conclusions.
56. The scheme would include new tree and hedge planting and meadow planting. These measures would increase the biodiversity value of the site, but achieving biodiversity net gain requirements would meet necessary policy objectives and can only be considered as a neutral factor in the planning balance.

### *Best and Most Versatile (BMV) land*

57. The site is Grade 2 ('very good' quality) arable land and is part of the district's best and most versatile (BMV) agricultural land. LP Policy ENV5 seeks to retain BMV land and only allows its loss where opportunities have been assessed for accommodating development on previously developed land. Nonetheless, there is a substantial quantity of BMV land in the vicinity, the site is a comparatively small size with limited capability to be used for arable farming purposes. This site is constrained by its size and the proximity of residential buildings.
58. As such, the loss of this site from farming would be negligible causing no material conflict with LP policy ENV5.

### *Previously developed land*

59. The applicant identifies that the site is previously developed land (PDL) due to the land having been previously part of a commercial equestrian and rabbit breeding activity. However, there is no evidence before me to

substantiate that the former livery business is still operating. Recent planning approvals have allowed for the conversion of the former equestrian buildings into residential and associated activity, rendering the former use abandoned. As such, the land formerly associated with the equestrian use is now greenfield paddocks, thereby has no PDL status.

#### *Benefits of the proposal*

60. The applicant states that the development is designed to meet the challenges of climate change and responds favorably to the Council's Climate Change Emergency declaration by reducing energy demand, water usage, reliance on fossil fuels, and enhanced biodiversity. The site enables direct access, via the PROW, to the local nature reserve. The plots are of sufficient size to allow for the provision of kitchen gardens.
61. There would be some economic benefits during construction and upon occupation. During construction the development would provide jobs and opportunities for local companies and once occupied future residents would support services in adjacent settlements and the surrounding area. Occupiers of the proposed dwellings would be capable of supporting local social groups and would deliver environmental enhancement through new planting. The benefits arising from the proposal will be considered in the planning balance.

#### *Support from Interested parties*

62. I have had regard to representations made in support to the application. However, whilst the support is noted this, in itself, is insufficient to justify an exception to national and local policies and does not outweigh the harm I have identified.

#### **Planning Obligation and Conditions**

63. The submitted signed and certified Unilateral Undertaking provides for the payment of a sum of £140,000 towards off-site affordable housing provision. The sum has been shown to be the greatest level that can be offered without rendering the scheme unviable and this sum is agreed between parties. The sum is required to ensure the development would be in compliance with LP saved policies GEN6 and H9, which seek appropriate infrastructure provision and a negotiated affordable housing provision. This sum is therefore necessary and reasonable in satisfaction of paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010.
64. The Council and a number of consultees have recommended and requested conditions to be imposed should the application be permitted. Having reviewed these conditions, in my view considering the application as a whole, imposing these conditions would not overcome or otherwise outweigh the harm I have found in my reasoning above.

## The Planning Balance

65. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is such a material consideration which seeks to boost the supply of housing.
66. The proposal would deliver 5 new dwellings in the form of bungalows, making a contribution to the housing needs of the area and the district's housing supply shortfall and be in a moderately accessible location. The dwellings could be delivered relatively quickly, making a rapid and positive contribution to the local supply of housing in the area. Furthermore, the scheme would make an affordable housing contribution. The applicant's listed economic, social and environmental benefits have also been taken into account. Nevertheless, the modest nature of the proposal being for only 5 dwellings, curtails the extent of the benefits such that overall, the benefits attract modest weight.
67. In contrast to these benefits, the adverse impacts arising from the proposal relate to the unsatisfactory location of the development and its harmful effect on local character and appearance. The proposal would provide only limited access to sustainable transport opportunities and does not present itself as an infill development site. This would conflict with LP Policy GEN1(e) and paragraphs 108(c) and 109 of the Framework.
68. Furthermore, the proposal would result in harm to the character and appearance of the area in conflict with LP policies GEN1, the third section of policy S7 and paragraphs 128 and 135 of the Framework. The scheme would also fail to make efficient use of land, in conflict with paragraphs 123, 124(d), 128 and 129(c) of the Framework. Notwithstanding the diminished weight afforded to LP policy S7, I find that the proposal would conflict with the development plan when taken as a whole. Moreover, the proposal would also conflict with the Framework as set out above. The nature and severity of harm in relation to these factors together with the consequent conflict with local and national policies, attracts significant weight.
69. The planning system should be genuinely plan-led. The proposal would dilute the overall strategy for the pattern of development which is also contrary to the expectations of the Framework. On the other hand, the Government's objective is to significantly boost the supply of homes. Whilst in some cases the housing delivery position might require a different approach to development outside village confines, this proposal would poorly relate to the settlement and would have a limited positive impact on total housing supply. The Framework also recognises the intrinsic character of the countryside.
70. Given that the LP policies concerned are broadly consistent with the Framework, the conflict with the agreed spatial strategy, harm to the character and appearance of the area and inefficient use of land are matters of considerable weight. These therefore significantly and

demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework when taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

### **Conclusion**

71. For these reasons, and having regard to all other matters raised, the proposal does not accord with the development plan and therefore I conclude that planning permission should be refused.

*Ben Plenty*

Inspector and Appointed Person

## **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 the Planning Inspectorate considered the submitted Flood Risk Assessment and Financial Viability Assessment and coordinated discussion with consultees/expert advisers and the Council to resolve those issues that could be satisfactorily addressed.
- 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, which means there is no right to appeal. 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 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>

## **Appendix 1 – List of Consultee Responses**

- Cadent Gas
- Gigaclear Diversionary Works
- Highway Agency
- National Highways
- Environment Agency
- Health and Safety Executive
- Natural England
- UK power Networks
- Essex County Council (ECC):
  - Highways and Transportation
  - Infrastructure Planning
  - Place Services – Historic Environment
  - Lead Local Flood Authority (LLFA)
  - Waste Planning Authority
  - Crime Prevention Tactical Adviser

- Affinity Water
- Thames Water
- NATS Safeguarding
- East Midlands Airport (MAG) Highways
- East Midlands Airport (MAG) Safeguarding
- Uttlesford District Council:
  - Conservation Officer
  - Housing Strategy
  - Environmental Health
- Elsenham Parish Council, Stansted Mountfitchet Parish Council and seven local residents

## **Appendix 2: Additional documents received after the Hearing**

- Housing Needs Strategies [2016-2021]
- Housing Needs Strategies [2021-2026]
- Local Housing Need Assessment – Draft Report [2023]