

Application for approval of matters reserved (layout, scale, landscaping, and appearance) pursuant to Appeal Decision ref: APP/C1570/W/22/3311069 (up to 50 market and affordable dwellings, public open space and associated highways and drainage infrastructure – all matters reserved except for access) – Land south of Bedwell Road, Elsenham

PLANNING STATEMENT

On behalf of Rochester Properties Limited, John F C Sergeant and Joan F M Anderson

Date: May 2024 | Pegasus Ref: P24-1131

Author: Edward Durrant MRTPI





Document Management.

Version	Date	Author	Checked/ Approved by:	Reason for revision
RO01v1	2024.06.14	Ed Durrant	Ed Durrant	
RO01v2	2024.06.19	Ed Durrant	Ed Durrant	Client comments



Contents

1. Introduction.....	3
2. Site Description and Relevant Background.....	4
3. Proposed Development.....	8
4. Planning Assessment.....	9
5. Conclusion.....	19

Appendices (please see separate document)

Appendix A – Statement of Common Ground – Reference R001v8

Appendix B – Appeal Decision dated 15th June 2023 – Reference APP/C1570/W/22/3311069

Appendix C – Letter from Edward Durrant of Pegasus Group dated 5th January 2024

1. Introduction

- 1.1. This Planning Statement has been prepared by Pegasus Group on behalf of Rochester Properties Limited, John F C Sergeant and Joan F M Anderson (the applicants) in support of a reserved matters application for land south of Bedwell Road, Elsenham for the following development:

'Approval of matters reserved (layout, scale, landscaping, and appearance) pursuant to Appeal Decision ref: APP/C1570/W/22/3311069 (up to 50 market and affordable dwellings, public open space and associated highways and drainage infrastructure – all matters reserved except for access)'

- 1.2. The submission of this application follows the approval at appeal of the outline application for land south of Bedwell Road. During the appeal the applicants agreed matters related to the design and layout of the site with Uttlesford District Council (the Council) through a Statement of Common Ground (SoCG¹). The Appeal Decision includes commentary from the Inspector on matters related to the design and layout of the site as well as conditions that are predicated on the indicative layout that was considered during the public inquiry.
- 1.3. Section 62A of the Town and Country Planning Act 1990 allows applications for planning permission and reserved matters consent to be made directly to the Secretary of State where the Local Planning Authority for the area has been designated for this purpose. In light of the fact that the Council has been designated since February 2022, the applicants are submitting this reserved matters application directly to the Secretary of State.
- 1.4. This application is to be determined in accordance with the local and national policies unless material planning considerations indicate otherwise. In this case, matters raised and agreed through the public inquiry, and the conditions attached to the Appeal Decision are material considerations that carry significant weight in the determination of this application.
- 1.5. The Statement is set out as follows:
- **Section 2** – Site Description: This section provides context to the application site and sets out the relevant background, including the planning history and the national and local planning policy context.
 - **Section 3**– Proposed Development: This section provides a summary of the details included within the application submission.
 - **Section 4**– Planning Assessment: This section sets out the material considerations that carry weight in the determination of this application.
 - **Section 5** – Conclusion: This provides a summary of the reasons why the reserved matters application should be approved.

¹ Statement of Common Ground – R001v8 (Appendix A)

2. Site Description and Relevant Background

Site Description

- 2.1. The application site is approximately 1.42ha and is located to the south of Bedwell Road. Whilst the site falls within the parish of Ugley it abuts the western parish boundary of Elsenham and is physically and visually separated from the smaller village of Ugley Green by the M11 motorway. The site edged red presently comprises a large area of low scrub. To the south and west of the site the area of low scrub meets a young, self-sown, mixed deciduous woodland that extents towards the M11. This land is edged in blue on the Site Location Plan² and is under the control of the applicants. To the east there is a terrace of two-storey dwellings set within generous curtilages that extend southwards along the eastern boundary of the site. These neighbouring properties fall within the settlement boundary for Elsenham, which the application site abuts.

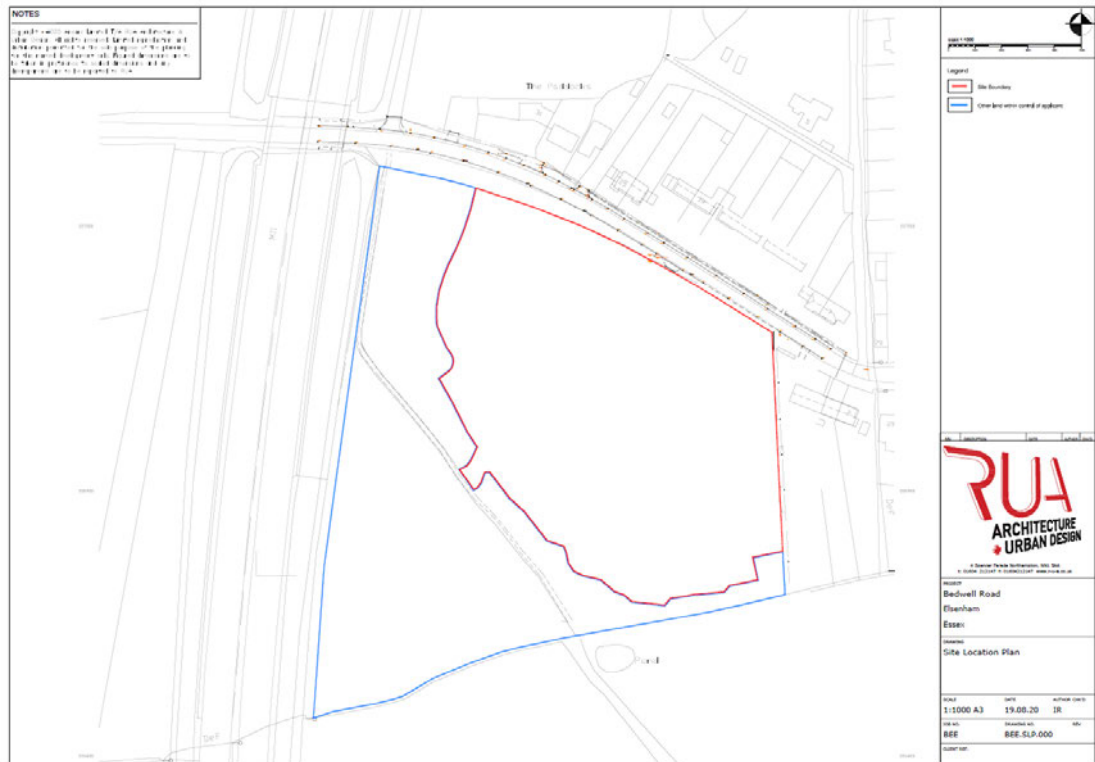


Figure 1: Site Location Plan

- 2.2. There is a public footpath (number 51/29) that runs along the rear of the site and joins a network of public footpaths that connect the site with Stansted Road to the south and Old Mead Road to the northeast. As well as providing access to the nearby Alsa Wood.

² Reference BEE.SLP.000

- 2.3. To the north and east of Bedwell Road there are two-storey dwellings with some lower dwellings to the west. As Bedwell Road continues westwards out of the village it enters an underpass that takes it below the M11. The other side of the M11 Bedwell Road enters Ugley Green. The site is not within a Conservation Area and does not contain any trees that are subject to Tree Preservation Orders.
- 2.4. The site is extremely well located in respect of access to Elsenham Railway Station which is within walking distance of the site along New Road. The bus stop is also located in front of the Station on Station Road. The site is therefore in a very sustainable location in respect of ease of access to public transport.

Surrounding area

- 2.5. Elsenham is one of the larger villages in the rural district of Uttlesford. The hierarchy of settlements in the withdrawn Local Plan 2033 identified it as a Key Village due to it having sufficient retail provision to meet day-to-day shopping needs, a GP surgery, primary school, public houses, community hall and regular bus services to other nearby Key Villages, towns and Stansted Airport. There is an established employment site to the north of the village (Gold Enterprise Park). The other side of the railway line there is another commercial estate that comprises mainly warehousing.
- 2.6. To the east of the site Bedwell Road becomes New Road, which then meets Station Road at Elsenham Railway Station. The nearest bus stops are located near to this junction on Station Road. The main built up areas of Elsenham extend southwards along Station Road as it runs parallel with the nearby M11. Where Station Road meets the B1051 the village extends to the east and west with new residential development either side of the B1051 to the west. To the east the B1051 heads past Elsenham Church of England Primary school towards Thaxted. Before leaving the village the road branches off southwards onto Hall Road, which continues around the perimeter of Stansted Airport to the main entrance roundabout serving the airport approximately 5km away.
- 2.7. To the west of the site Bedwell Road passes under the M11 and joins up with Cambridge Road B1383 via Pound Lane. Alternatively, the westward route of the B1051 out of the village crosses over the M11 and heads towards Stansted Mountfitchet where it meets the B1383, which then extends southwards to Bishop's Stortford. Whilst Bishop's Stortford is outside the district it includes a larger number of employment areas and a town centre. Stansted Mountfitchet is identified in the Local Plan as a service centre and acts as a hub for surrounding rural areas.
- 2.8. To the south of the site, and covering land either side of the M11, is the ancient woodland of Alsa Wood. Footpath 51/29 extends along the eastern boundary of this woodland and connects the site to new residential developments to the north of Stansted Road. The footpath then runs through the site connecting into the wider network to the south.

Planning History

- 2.9. Prior to the submission of the outline application³ (the application) on 2nd November 2020 there was no planning history for the site. The application went before the Council's planning committee on 8th June 2022, where it was deferred. The application then went back before the planning committee on 6th July 2022. On both occasions the application went with an officer recommendation of approval. The committee report of 6th July outlines the planning balance carried out by officers. The application was refused by the planning committee at their July meeting. The decision notice that was issued on 7th July 2022 included the following reasons for refusal:
1. *Due to the location of the development being in close proximity to the M11 Motorway it will result in a significant noise disturbance to the occupiers of the development, giving rise to significant adverse impacts on health and the quality of life. This is contrary to Paragraph 185 (a) of the NPPF, ULP Policies ENV10 and GEN2.*
 2. *Due to the location of the development being in close proximity to the M11 Motorway it will result in the future occupiers being exposed to poor air quality. This is contrary paragraph 186 of the NPPF and ULP Policies ENV13 and GEN2.*
 3. *The proposed development fails to deliver appropriate infrastructure to mitigate any impacts and support the delivery of the proposed development. The proposal is therefore considered contrary to the implementation of Policies GEN6 – Infrastructure Provision to Support Development, ENV7 – The Protection of the Natural Environment – Designated Sites, and Policy H9 – Affordable Housing, of the Adopted Uttlesford Local Plan 2005, and the National Planning Policy Framework 2021.*
- 2.10. The refused application was appealed with a public inquiry held on 21st March 2023. Prior to the public inquiry the Council had agreed through the SoCG that it had no grounds on which to defend the second reason for refusal. And that, subject to the Section 106 agreement (S106) submitted with the appeal being agreed, the third reason for refusal would no longer apply.
- 2.11. Following the public inquiry the Appeal Decision of 15th June 2023⁴ allowed the appeal, granting outline planning permission for up to 50 market and affordable dwellings and the detailed access arrangements. The Appeal Decision included twenty-nine conditions. Some of these conditions, and schedules of the S106 agreement⁵, set out the matters to be considered during the determination of this reserved matters application.

³ Reference UTT/20/2908/OP

⁴ Reference APP/C1570/W/22/3311069 – Appendix B

⁵ Dated 30th March 2023

Policy Context

- 2.12. The Uttlesford Local Plan 2001–2011 was adopted on 20th January 2005, some five years into the local plan period, and only covered the period until 2011. Section 6 of the Local Plan confirms that the settlement boundaries were drawn and allocations adopted to deliver housing requirements based upon those in the “Essex and Southend-on-Sea Structure Plan to 2011” and the “Regional Spatial Strategy for the South East of England”. These requirements were derived from household projections that are now almost three decades out of date and therefore have no bearing on the current housing needs in Uttlesford. The policies of the Local Plan were ‘saved’ by a direction from the Secretary of State in December 2007 with the recommendation that a new Local Plan be produced at the earliest opportunity.

Emerging Local Plan

- 2.13. Since the adoption of the 2005 Local Plan, the Council has made several attempts at adopting a new Local Plan. Two draft Local Plans were withdrawn before being adopted, with the most recent one being withdrawn in April 2020. The Council is now preparing a new Local Plan and held a Regulation 18 consultation at the end of 2023.
- 2.14. The published Local Development Scheme (LDS) outlines that the Council expects to go to Regulation 19 consultation in Summer 2024. It has since been confirmed that the Draft (Regulation 19) Plan will be published in July 2024 with consultation in August 2024. Until such time as the emerging Local Plan is adopted, or the draft Plan becomes significantly more advanced, the 2005 Local Plan remains the development plan against which this and future applications must be determined.
- 2.15. Relevant paragraphs of the revised National Planning Policy Framework (the Framework), published in December 2023, are also a material consideration in the determination of this application.

3. Proposed Development

- 3.1. In accordance with condition 1 of the Appeal Decision, this application seeks approval of details of the layout, scale, landscaping, and appearance of the site in writing before development commences. This application is submitted not later than the expiration of three years from the date of the Appeal Decision in accordance with condition 2.
- 3.2. In addition to complying with conditions 1 and 2, conditions 3 and 4 also require specific details to be submitted as part of the reserved matters application. These details relate to the internal layouts of the dwellings and sound insulation measures respectively.
- 3.3. The proposed layout of the site follows that of the two indicative plans⁶ (the approved plans) listed as approved plans in condition 6 of the Appeal Decision. The layout is based on a permitter block of three-storey apartments to the northwest of the site and two-storey detached, semi-detached and terrace dwellings to the east. The development comprises of 1, 2, 3- and 4-bedroom properties with dwellings providing active frontages along Bedwell Road. Within the site and on its periphery, there are areas of open space that provide connectivity through to the nearby public footpath.
- 3.4. In accordance with the S106, twenty of the dwellings will be affordable housing (40%) with the remaining 30 dwellings being for sale on the open market (60%). In accordance with condition 10, 5% of the dwellings will be built to Category 3 (wheelchair user) housing M4(3)(2)(a) wheelchair adaptable of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.
- 3.5. Full details of the design approach to the layout of the site and architectural detailing and use of materials for the thirty market and twenty affordable dwellings are included in the Design and Access Statement (DAS) prepared by RUA Architects.
- 3.6. Details of the landscaping scheme are included in the drawings prepared by Matt Lee Landscape Architecture. These show the landscaping proposals for the open spaces within the site and how the areas of parking and site frontage will be made green by new planting. Details of the tree pits are also submitted for approval.
- 3.7. The access off Bedwell Road was approved at the outline stage with contributions to provide enhancement to the footways westwards either side of Bedwell Road.

⁶ References BEE.SLP.000 and BEE.IPL.001

4. Planning Assessment

Principle of development

- 4.1. The principle of the development of the site for up to 50 market and affordable dwellings has been established through the allowed appeal that granted outline planning permission with all matters reserved except access. Accordingly, the only matters to consider in the determination of this reserved matters application are those related to the layout, scale, landscape and appearance of the site and proposed dwellings.
- 4.2. Alongside the approval of the reserved matters there are also specific conditions that require the submission of details of how noise from the M11 will be mitigated through the design and layout of the development. These conditions require additional details to be submitted as part of the reserved matters application.
- 4.3. Section 3.2.1. of the 'Procedural Guidance for Section 62A Authorities in Special Measures' recommends that before submitting a Section 62A application applicants should:
- Identify what the main issues are likely to be with reference to the development plan, the National Planning Policy Framework, supplementary guidance documents and issues raised by pre-application community consultation or advice.
 - Ensure that all the issues identified are adequately and appropriately addressed in the application submission. This should be included within a Planning Statement or in an accompanying letter submitted with the application.
 - Carryout pre-application discussions with any key stakeholders including statutory consultees; and where appropriate, prepare a draft planning obligation or unilateral undertaking to address issues which will be raised by the development proposal.
- 4.4. Whilst there has not been any pre-application engagement with the community or statutory consultees, the matters that are material to the determination of this application are already known. These matters were raised and discussed during the public inquiry. The following sections of this Statement set out how these matters are adequately and appropriately addressed in the application submission.
- 4.5. As part of the appeal the applicants agreed matters relevant to the layout, scale and appearance of the site through the SoCG. The first of these related to the appropriateness of up to three-storey development on the edge of the village. The agreed position was the following:
- 'A detailed design that incorporated a taller built form (up to three-storey) to the west of the site to minimise the impact of noise from the M11 on occupiers of the proposed development and improve the noise environment for occupiers of the adjacent dwellings on Bedwell Road, would, likely, subject to the final design, be an acceptable scale of development on the edge of the village.'*

4.6. By agreeing the SoCG the Council has accepted that the principle of three-storey development on the edge of the village is acceptable, subject to the final design.

4.7. During the appeal there was reference to the site north of Bedwell Road where an application for residential development by Gladman was refused and the appeal subsequently dismissed. In that case the Inspector was not convinced that the acoustic challenges of the site could be overcome by conditions. The SoCG confirms that the Council accepted that through the use of conditions, the wording of which was agreed with the Council, the development would not result in a significant noise disturbance to the occupiers of the development, nor give rise to significant adverse impacts on health and quality of life. This is confirmed by the following agreed matter:

'The appeal scheme is materially different to the Gladman scheme that was dismissed under reference APP/C1570/W/21/3274573 both in terms of the noise environment and the confidence that good acoustic design will be able to overcome the acoustic challenges of the site. Accordingly, the use of the conditions listed under sections 2.4 and 2.8 of this SoCG would ensure that the development would not result in a significant noise disturbance to the occupiers of the development, nor give rise to significant adverse impacts on health and quality of life.'

4.8. Similarly, the following paragraph from the Appeal Decision confirms that the Inspector agreed with the approach proposed through the outline application to mitigate the impact of noise through good acoustic design principles.

"Furthermore, the Inspector for the scheme to the north of Bedwell Road noted that the ProPG states that schemes should not be granted without first being satisfied that good acoustic design principles will be able to overcome the acoustic challenges. This is not the case for the appeal proposal which the Council does not dispute follows good acoustic design principles. Furthermore, the implementation of a 'barrier block' design approach would not result in unacceptable living conditions across the appeal site. The circumstances are therefore materially different." (Paragraph 26)

4.9. Finally, the SoCG agreed that there was no reason to refuse outline planning permission on the grounds of:

- 1) harm to the character or appearance of the site or wider area
- 2) harm to the biodiversity of the site or its surroundings
- 3) harm to the living conditions of nearby existing residents or future residents of the site by reason of overlooking, noise, disturbance, outlook or loss of daylight or sunlight
- 4) harm to highway safety or highway capacity
- 5) inability to provide adequate on-site parking provision or adequate public open space

4.10. The matters that were agreed through the SoCG are material to the determination of this application as the details of the layout, scale, landscape, and appearance are predicated on the indicative plans that were considered as part of the appeal. Condition 6 of the Appeal Decision requires the development to be carried out in accordance with the approved plans.

Layout

4.11. The proposed 'Planning Layout (O8)⁷' plan is based on the approved plans with a layout that successfully integrates the site into its surroundings providing opportunities for improved pedestrian connectivity to footways and nearby Public Rights of Ways through a network of open spaces.

4.12. Importantly, the layout retains the comprehensive design principles highlighted at the outline stage, which include:

- Built form set back from Bedwell Road.
- Respect the building line from the eastern boundary.
- Sensitive response to the back gardens of existing properties along the eastern boundary.
- Sympathetic response to landscape assets along the western edge.
- Continuous three-storey built form to provide noise mitigation from the M11 at the northwestern part of the site.
- Incorporate the desire lines of the existing public footpaths.
- Provide connectivity across the site through provision of additional link to the Public Right of Way network.
- Linear natural play running along trim trail path along the western boundary and an incidental pocket park located at the heart of the development.

4.13. The development includes a mix of apartments, terraced, semi-detached and detached houses comprising of 1, 2, 3- and 4-bedroom properties. To ensure there will be no loss of amenity from overlooking of habitable rooms, there will be a minimum of 25m 'back-to-back' separation between properties. None of the dwellings are sited near enough to the eastern boundary to result in overlooking or overbearing impacts on existing properties on Bedwell Road.

4.14. The layout provides good levels of natural surveillance of the areas of open space within the site and routes through the site. By providing active frontages onto Bedwell Road the layout

⁷ Reference BEE-PL-001

also provides good natural surveillance of the footway network connecting the site to public transport infrastructure.

- 4.15. Other than the site being in the countryside, there was no objection to the indicative layout submitted with the outline application. It is the scale of development, in particular the three-storey apartment blocks to the northwest of the site, that resulted in objections to the design approach that was proposed at the outline planning stage.

Scale

- 4.16. In recent correspondence with the Council on the proposed type and mix of Affordable Housing Units officers questioned whether a detailed scheme based on three-storey apartment blocks was acceptable. Moreover, they questioned whether this matter had been considered at the public inquiry. It is difficult to see how anyone reading the Appeal Decision could come to the conclusion that the Inspector did not consider the scheme on the basis of the indicative layout, which included three storey apartment blocks to the northwest of the site. This is evidenced by the following paragraphs of the Appeal Decision:

“As design is a reserved matter, the appellants’ evidence utilises the indicative planning layout to assess the potential noise impacts of the proposal. The indicative planning layout shows that 3 storey flatted development would be located to the west and south west of the site. The appellant has indicated that the proposed 3 storey development could be around 12 metres in height and would serve to provide an acoustic ‘barrier block’ from the motorway which would have the effect of acoustically shielding the remainder of the development.” (Paragraph 11)

“The appellant confirmed that other forms of noise mitigation were considered during the development of the indicative planning layout. However, due to the elevated position of the M11 relative to the ground level of the appeal site, the appellants’ confirmed other forms of mitigation such as acoustic barriers adjacent to the road or located between the proposed dwellings and the M11 would not be effective and would be logistically complex. I agree with the appellant in this regard particularly in light of the physical circumstances of the site, its relationship to the M11 and its elevation.” (Paragraph 12)

- 4.17. The above paragraphs demonstrate that the use of three-storey perimeter blocks to the northwest of the site was integral to the assessment of how an acceptable noise environment could be created for future residents. Indeed, the following paragraph demonstrates that Inspector considered evidence of the noise environment at the height of the third-storey of the apartment blocks, which he concluded had been adequately considered in respect of the noise environment

“Having regard to the external noise environment at the increased height of the proposed 3 storey flats, during the Inquiry the appellants’ indicated that the predicted noise levels at the height of the third storey of the proposed flats (around 8-10 metres above ground level) would not be expected to be significantly greater than at the 4 metre level at around 1 dB higher which was not disputed. As such, any rooms within the top floor of the proposed 3

storey flats would not experience significantly different conditions than those on the first floor and I am therefore satisfied that the 3 storey element of the proposal has been adequately considered in respect of the noise environment.” (Paragraph 15)

- 4.18. In paragraphs 42 and 43 of the Appeal Decision the Inspector considers the impact upon character and appearance of the proposed development. Specifically with reference to the three storey apartment blocks on the edge of the village. The Inspector concluded that there are no long views of the site from open countryside and the development would be visibly contained by the M11. The Inspector also highlighted the retained mature trees to the west and south-west of the site, which provide further screening. Whilst the three-storey apartment blocks would be visible from Bedwell Road and other nearby streets, the Inspector concluded that they would be partially screened by the intervening development to the northern and eastern parts of the site.

“Concerns were raised from interested parties regarding the impact of the proposal on the character and appearance of the area, including the 3 storey flatted development on the edge of the village. As set out above, the site is bounded to the west and south-west by the M11 which is elevated. As a result, there are no long views of the site from open countryside and the development would be visibly contained by the road in this direction. There are also a number of retained mature trees to the west and south-west of the site which provide further screening. Whilst the proposed 3 storey element of the proposal would be visible from Bedwell Road and other nearby streets, these would be partially screened by the intervening development to the northern and eastern parts of the appeal site.” (Paragraph 42)

“My attention has been drawn to other examples of 3 storey development in the village. There is no dispute that 3 storey development has been allowed within the village. However, these examples are not directly comparable to the appeal proposal as they are integrated within their respective sites rather than on the edge. However, having regard to the mixture of two and three storey dwellings that are now found within the village, the extent of public views, the visual impact of the M11 and the intervening screening, I do not find that the 3 storey element would be harmful to the character and appearance of the area. Furthermore, matters of appearance are not fixed and I am satisfied that the indicative layout demonstrates that an acceptable design would be capable of being secured as part of future reserved matters.” (Paragraph 43)

- 4.19. It is clear that the scale of the development proposals, which includes three-storey development to the northwest of the site was considered appropriate at the outline stage. Moreover, the Council has confirmed that three-storey development was acceptable on the site, subject to the final design, by agreeing the wording of the SoCG. Accordingly, there should be no objection to the scale of development that is hereby proposed.

Landscape

- 4.20. The proposed landscaping scheme prepared by Matt Lee Landscape Architecture creates a strong landscape structure to embed the site within the surrounding woodland. It includes a

trim trail path along the western boundary with access routes through to the wooded areas to the east of the M11 and Alsa Wood to the south.

- 4.21. Whilst a scheme of landscaping has been submitted for approval as one of the reserved matters, further details will be submitted to comply with condition 7 (hard and soft landscaping). This condition requires full details of both hard and soft landscape prior to any development above slab level.
- 4.22. The proposed landscape scheme has been designed with the requirements of conditions 20 (Biodiversity Net Gain Design Stage Report), 21 (Biodiversity Enhancement Strategy), 22 (Landscape and Ecological Management Plan), and 24 (detailed surface water drainage scheme) in mind. In due course an application, or applications, will be submitted to discharge conditions 20, 21, 22, and 24. These details do not need to be submitted for approval concurrently with the reserved matters application.
- 4.23. The scheme of landscaping works with the existing trees on the site and adjacent land that are to be retained and enhanced through management and replacement planting. Accordingly, there should be no objection to the scheme of landscaping that is hereby proposed.

Appearance

- 4.24. The appearance of the proposed dwellings follows the vernacular of the village, where elsewhere three-storey apartment blocks have been approved as part of larger developments. The site has two character areas with the 'Formal Centre' seen as the heart of the development being centered around the main tree lined boulevard street.
- 4.25. The 'Neighbourhood' character area is designed to be a looser grain with large detached and semi-detached dwellings fronting Bedwell Road. Through the use of different architectural styles and scales of building the appearance of the built forms help create a sense of place and identity.
- 4.26. The affordable housing will comprise both apartments and houses. All the affordable housing units and are designed to be tenure blind to create an 'integrated community' where it will be indistinguishable from open market dwellings.
- 4.27. Like other schemes that have successfully integrated into the urban fabric of the village, the dwellings are based on traditional architectural design features in keeping with the vernacular of the area. They will be finished in brickwork, using local red bricks (orange red), white or coloured render and either dark brown or slate grey pantiles. The final details of the external materials can be agreed through the discharge of condition requiring details of the products to be used.
- 4.28. The submitted '*Materials and Boundary Treatment Plan*' demonstrates that condition 14 will be complied with as no reflective materials are proposed to be used in the construction of the dwellings.

- 4.29. Based on the architectural styling and use of materials being similar to other developments on the edge of Elsenham, and the visual impact of three-storey apartments on the site being considered acceptable, there should be no objections to the appearance of the development.

Condition 3

- 4.30. The wording of condition 3 was agreed with the Council through the SoCG to address their concerns about compliance with Policy GEN2 (Design) in terms of protecting the amenity of future residents from noise from the M11. During the appeal reference was made to the Gladman site, where the Inspector was not satisfied that the proposed scheme would have produced an acceptable environment in which to live and that it could not have been left to the hope that conditions or the reserved matters would remedy the issue. In contrast, the Inspector for the application site accepted that the appeal scheme was predicated on a design and layout that, although illustrative at that stage, had been designed specifically to take account of the acoustic environment. Whilst no detailed plans were submitted for approval, the appeal was determined based on drawings which were listed as approved in condition 6.

- 4.31. As part of the evidence given by the applicants' noise consultant it was confirmed that the approved plans had been designed to ensure that each dwelling would have one relatively quiet façade shielded from the M11, which the Planning Practice Guidance (PPG)⁴ advises can partially offset noise impacts. In paragraph 16 of the Appeal Decision the Inspector concluded that this could be secured by a condition which would require all dwellings to have dual aspect to ensure at least one elevation would not be exposed to the M11. Accordingly, to ensure compliance with GEN2, the following condition was attached to the Appeal Decision:

'As part of any Reserved Matters application (layout) a scheme detailing internal layout shall be submitted for approval in writing by the local planning authority and the scheme shall include details showing all dwellings with dual aspect.' (condition 3)

- 4.32. In order to comply with condition 3, the internal floor plans of the individual dwellings show that they all have dual aspects. This is particularly relevant to the apartments on the northwestern edge, nearest to the M11. Through compliance with condition 3 it was agreed that the development would not result in a significant noise disturbance to the occupiers of the development, nor give rise to significant adverse impacts on health and quality of life.

Condition 4

- 4.33. To mitigate the impact of noise from the M11 the most appropriate form of development is the use of a the three-storey apartment blocks. This was accepted by the Inspector in the following paragraph of the Appeal Decision.

"As a result, the 'barrier block' design was adopted utilising 3 storey development which would provide more effective noise attenuation as demonstrated by the modelled noise contours. I concur with the appellant in this regard and when taking into account the change

in levels between the site and the M11, the extent of fencing or bunding would be incongruous in its own right.” (Paragraph 29)

- 4.34. Through the SoCG it was agreed that the potential effects on the living conditions of future occupiers having regard to noise could be addressed via conditions. Accordingly, condition 4, the wording of which was agreed by the Council, was attached to the Appeal Decision. Condition 4 states:

‘As part of any Reserved Matters application, a scheme detailing sound insulation measures shall be submitted for approval in writing by the local planning authority and the scheme shall include:

i) details sufficient to demonstrate that the internal noise levels recommended in BS 8233:2014 will be achieved and for individual noise events to not normally exceed 45 dB LA_{max,T} during the night-time. The scheme will include the internal configuration of rooms and the specification and reduction calculations for the external building fabric, glazing, mechanical ventilation, and acoustic barriers, and

ii) details sufficient to demonstrate that a noise level not exceeding 55 dB LA_{eq,16hr} in the outdoor amenity areas will be achieved, including the position, design, height and materials of any acoustic barrier proposed, along with calculations of the barrier attenuation.

The development shall be implemented in accordance with the approved scheme prior to the occupation of any dwelling and retained thereafter.’

- 4.35. In order to comply with condition 4, the ‘Condition Discharge Acoustic Report’ has been prepared by WSP. This report details a three-dimensional noise model of the development site that has been constructed based on the publicly available information and the submitted layout plan.

- 4.36. The measured noise data have been compared to the calculated traffic noise levels at the monitoring locations the provide a more accurate assessment of the existing noise environment than was possible at the time the outline application was submitted. This noise assessment has demonstrated that the plots in the northern portion of the site along the western boundary closest to the M11 are exposed to the highest noise levels. For these plots, which are three-storey apartment blocks, there are no habitable rooms fronting onto the M11. These façades will be fitted with acoustic glazing and ventilation as set out at the appeal.

- 4.37. The report also demonstrates that noise levels in all garden spaces are predicted to fall below the 55dB LA_{eq,1hr} limit, with the exception of three garden spaces with noise levels of up to 56dB. This is considered to be insignificant in terms of a potential exceedance, particularly given that the noise model is overpredicting by up to 2dB compared to the daytime measured data. As part of the mitigation, 1.8m high fences / walls have been specified for all plots, with the exception of one plot which is specified with a 2.0m high fence and another with a 2.2m high wall.

4.38. The mitigation within the WSP report accords with that proposed at the appeal, which included the use of acoustic trickle ventilation and standard to high-performance glazing on those facades of the apartment blocks facing the M11. The other elevations not facing the M11 in the majority of the proposed dwellings would either have standard glazing with trickle ventilation or no other specialised glazing or ventilation requirements.

4.39. In the Appeal Decision the Inspector considers the impact of noise on outdoor spaces and concludes that any exceedance of guidance in the British Standard BS 8233:2014 in respect of external areas for a limited number of plots would be acceptable. This is evidenced by the following paragraph.

“Turning to noise in outdoor spaces, the appellants’ evidence indicates that predicted noise levels for the external gardens and communal outdoor areas for the proposed flats would predominantly not exceed 55 dB LAeq,16hr during both daytime and night time hours which is within the guidance in the British Standard BS 8233:2014 in respect of external areas. Across the wider scheme the evidence within the Acoustic Report indicates at Figure B1 that there would be a limited portion of the garden spaces of proposed plots 4, 11 and 16 exceeding this by less than 1 dB. However, as these would be very small proportions of the outdoor space within the developed part of the site, I find that the exceedances of the guidance in these areas would only have a limited impact on the living conditions of potential future occupiers and would therefore be at a level that would be acceptable.” (Paragraph 22)

4.40. The ‘Condition Discharge Acoustic Report’ confirms that the development will incorporate appropriate measures to mitigate the impact of noise from the M11 for the occupiers of all the dwellings on the development. The specific measures will be integrated into the buildings, regardless of their location within the site or tenure. Condition 4 requires that these measures be installed and thereafter retained. In complying with condition 4, the development will provide an acceptable living environment for all occupiers.

Housing mix

4.41. The distribution of affordable housing across the site is controlled by Schedule 2 Part 2 paragraph 3 of the S106, which requires them to be in clusters no greater than 18 dwellings. The submitted layout accords with this requirement. Other than complying with the clustering threshold, the location of the affordable housing within the site is not a matter that can be considered as part of any of the matters for which approval is hereby sought.

4.42. Schedule 2 Part 2 paragraph 5 of the S106 states:

“The type and mix of Affordable Housing Units is to be agreed between the Council and the Owners prior to submission of the Reserved Matters Application for that Phase of the Development and unless otherwise agreed no Development is to take place unless and until such written agreement has been acknowledged in writing by the council (not to be unreasonably withheld or delayed).”

- 4.43. The applicants' agent wrote to the Council on 5th January 2024⁸ to agree the type and mix of Affordable Housing Units. The letter included a table setting out the proposed number and tenure of each Affordable Housing Unit type. These totalled 40% of the total number of units on the site. In terms of tenure met the 70%/30% split between Affordable Rent Units and Shared Ownership Units as required in the S106.
- 4.44. The Council did not object to this Table listing the proposed "type" and "mix" of Affordable Housing Units. Whilst the Council raised matters not related to type and mix of Affordable Housing Units in emails dated 13th February 2024 and 11th March 2024, the proposed type and mix of Affordable Housing Units was not queried in either reply. The applicants therefore, having taken advice from Leading Planning Counsel, consider that the type and mix of Affordable Housing Units has been agreed.
- 4.45. It was anticipated that the Council would agree to the Table given that the Appeal Decision is subject to a condition which requires the layout to be in accordance with the approved plans. Both these approved plans specify the type and mix of Affordable Housing Units in the Table reproduced by the applicants' agent.
- 4.46. The conditions of the Appeal Decision and the S106, which was agreed between the applicants and the Council, set out that the Affordable Housing Units would be positioned on the Affordable Housing land in clusters which would not comprise more than 18 units and that 5% of the Affordable Housing Units would be wheelchair user (M4(3)) unless otherwise agreed in writing with the Council. The submitted plans accord with all these requirements.
- 4.47. If the Council were to allege that it has an objection to the type and mix of Affordable Housing Units set out in the letter of 5th January 2024 through the determination of this application, then it is considered that that objection has been unreasonably delayed. Similarly, if the Council were to allege that it is withholding its agreement, then it is unreasonable to do so as no reason has been given as to why the type and mix of Affordable Housing Units set out in the letter of 5th January 2024 are unacceptable.

⁸ Letter from Edward Durrant of Pegasus Group dated 5th January 2024 (Appendix C)

5. Conclusion

5.1. Paragraph 57 of the Appeal Decision identifies the benefits that would arise from the appeal being allowed. These included a substantial benefit through the provision of housing including affordable housing which would make a positive contribution to addressing the shortfall in housing land supply. The proposal would also provide moderate economic, social and environmental benefits. There would also be a moderate benefit to the living conditions occupiers of nearby properties as a result of reduced external noise due to the barrier effect of the proposal. These benefits will all be delivered through the approval of this reserved matters application. Since the appeal was decided the Council's five-year supply of housing has been demonstrated to have fallen below the figure agreed in the SoCG through a recent Section 62A application⁹. Accordingly, the benefit through the provision of housing including affordable housing is now even greater than at the time of the appeal.

5.2. The Appeal Decision attaches significant weight to the illustrative plans submitted as part of the outline application. Indeed, these are listed as approved plans. The SoCG and relevant sections of the Appeal Decision demonstrate that the consideration of 3 storey development on the edge of the village, and how this was necessary to mitigate the impact of noise from the M11, was integral to the appeal being allowed. This is further evidenced by the wording of the bespoke conditions, which were attached to ensure that the detailed scheme appropriately mitigated the impact of noise. Conditions the wording of which was agreed with the Council. This led the Inspector to confirm that:

"...the proposed development would provide acceptable living conditions for potential future occupiers having particular regard to noise and disturbance. It would therefore accord with policy ENV10 of the Uttlesford Local Plan (2005) (ULP) which seeks to prevent future occupants from experiencing significant noise and disturbance. I also find it would accord with policy GEN2 of the ULP which states that development will not be permitted unless, amongst other things, its design meets the criteria in adopted Supplementary Planning Documents and it would not have a materially adverse effect on the reasonable occupation and enjoyment of a residential or other sensitive property." (Paragraph 32)

5.3. The submission of this reserved matters application includes details of the layout, scale, landscaping, and appearance of 50 dwellings in full accordance with the approved plans listed in condition 6 of the Appeal Decision. Furthermore, through the submission of details to comply with conditions 3 and 4 it has been demonstrated that the design of the scheme will result in acceptable living condition for all residents of the development. Accordingly, it is requested that this application be approved without delay.

⁹ Reference S62A/2023/0031



Appendices (please see separate document)

Appendix A – Statement of Common Ground – Reference R001v8

Appendix B – Appeal Decision dated 15th June 2023 – Reference APP/C1570/W/22/3311069

Appendix C – Letter from Edward Durrant of Pegasus Group dated 5th January 2024

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

Cambridge

Suite 4, Pioneer House, Vision Park, Histon,
Cambridge, CB24 9NL

T 01223 202100

E Cambridge@pegasusgroup.co.uk

Offices throughout the UK & Ireland

Expertly Done.

DESIGN | ECONOMICS | ENVIRONMENT | HERITAGE | LAND & PROPERTY | PLANNING | TRANSPORT & INFRASTRUCTURE



All paper sources from sustainably managed forests

Pegasus Group is a trading name of Pegasus Planning Group Limited (07277000) registered in England and Wales.

Registered office: Querns Business Centre, Whitworth Road, Cirencester, Gloucestershire, GL7 1RT
We are ISO certified 9001, 14001, 45001



[Pegasus_Group](#)



[pegasusgroup](#)



[Pegasus_Group](#)

PEGASUSGROUP.CO.UK