
Decision Notice and Statement of Reasons

Site visit made on 20 June 2023

By Susan Hunt BA (Hons) MA MRTPI

A person appointed by the Secretary of State

Decision date: 27 June 2023

Application Reference: S62A/22/0005

Site address: Canfield Moat, High Cross Lane West, Little Canfield, Dunmow, Essex CM6 1TD

- 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 5 June 2022 is made by Mr Andrew Smith and was validated on 1 November 2022.
 - The development proposed is Full planning application proposing the erection of 15 new dwellings.
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Decision

1. Planning permission is refused for the development described above, for the following reasons:
 - 1) Having regard to its countryside location and accessibility, the site is not a suitable location for the proposed development contrary to Uttlesford Local Plan (2005) (Local Plan) policy S7.
 - 2) The location, scale, siting and design of the proposed dwellings would result in harm to the established character and appearance of the existing site and surrounding area, contrary to policy GEN2 of the Local Plan.
 - 3) The scale, siting and design of the proposed dwellings including partial demolition of outbuildings would result in harm to the significance of the existing dwelling and outbuildings which are considered to represent a group of non-designated heritage assets, contrary to paragraph 203 of the National Planning Policy Framework (the Framework).
 - 4) The effects of the proposed development on features of archaeological interest that may be present on the site have not been adequately established, contrary to policy ENV4 of the Local Plan and paragraphs 194 and 203 of the Framework.
 - 5) It has not been adequately demonstrated that the proposed access onto High Cross Lane West would meet the required standards for traffic associated with the proposed development, nor that there would be there be safe and secure access for existing and future non-motorised users of public rights of way 14 and 16, contrary to Local Plan policy GEN1 and paragraphs 110 and 112 of the Framework.

- 6) Insufficient information has been submitted to establish whether the site can be suitably and sustainably drained without increasing flood risk, contrary to Local Plan policy GEN3 and paragraph 169 of the 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.
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 8 November 2022 which allowed for responses by 6 December 2022. 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, covering letter and minutes following a committee meeting. The consultation response summarises these documents and sets out the Council's objections to the proposed development on a number of grounds.
6. Several of the consultation responses, including that from the Council, raised issues that required further information and/or revised plans. These include responses from Essex County Council (ECC) Place Services ecology, Highways and the Lead Local Flood Authority (LLFA), and UDC Housing Strategy. On an initial review of the proposals, I set out my initial comments in a letter to the applicant dated 9 December 2022. This highlighted the matters raised by the consultees and third parties and requested further information that I considered necessary to proceed with a determination of the application. Following the receipt of initial information in response to my comments, I invited the applicant to further respond in my letter of 20 February 2023.
7. Having regard to the Wheatcroft Principles, I accepted additional plans and information in response to those comments and a targeted re-consultation of the relevant consultees only was carried out. Following re-consultation, a procedural review of the case was undertaken in line with the published criteria. That review established that this application was to be determined on the basis of representations in writing; being neither of a significant scale, nor raising issues which could not be clearly understood from the written submissions. I issued a letter to this effect on 19 May 2023.
8. I carried out an unaccompanied site visit on the afternoon of 20 April 2023 which enabled me to view the site, the surrounding area and the nearby roads and public rights of way (PRoW).

9. 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.

Main Issues

10. Having regard to the application, the consultation responses, comments from interested parties, the Council's report and Committee resolution, as well as what I saw on site, the main issues for this application are:
- The principle of development in the countryside and whether the site is sustainably located;
 - The design of the development and its effect on the character and appearance of the existing site and the surrounding area;
 - Effects on non-designated heritage assets;
 - Whether safe and suitable access to the site can be provided;
 - Effects on biodiversity and trees; and
 - Whether the site can be suitably and sustainably drained without increasing flood risk.

Reasons

11. The application site comprises a large early Victorian detached dwelling 'Canfield Moat', set in extensive landscaped grounds which include a number of outbuildings including a former coach house which has been converted to a dwelling, barn storage buildings, tennis courts, pool and a triple garage currently in use as a dance studio.
12. The site lies within the countryside to the south of the B1256 'Roman Road' between Little Canfield and Great Dunmow. It is accessed from High Cross Lane West, a single track lane with a small number of dwellings of varying age and sizes located primarily to its western side. From High Cross Lane West, a private single track road leads to the site and the neighbouring 'Moat Farm'.

Location

13. Given its location remote from any existing settlements, the site is defined as open countryside. Local Plan policy S7 requires that it be protected for its own sake, and states that planning permission will only be given for development that needs to take place there or is appropriate to a rural area. Several other factors also feed into my consideration of this main issue, including its accessibility to local services.
14. There are no shops or services within reasonable walking distance of the site. There is a gym at the neighbouring farm, but this private facility is not a service that would cater for everyday needs. The nearest settlements at Little Canfield and Great Dunmow contain a range of shops, community facilities and services including public transport services. However, given the distance

of the services within these settlements from the site and the lack of safe pedestrian routes along High Cross Lane West, I find it highly likely that the majority of journeys would be undertaken using the private car.

15. Taking all of the above together, I find that the site is not a suitable location for the proposed housing development, contrary to Local Plan policy S7. The rural, unsustainable location of the site also conflicts with the overall aims of the Framework to deliver sustainable development, as well as guidance around delivering a sufficient supply of homes in suitable locations.

Design, Character and Appearance

16. The site nor surrounding landscapes are not subject to any local or national designations, nor is there any information before me to suggest that the landscape is valued in the context of paragraph 174 a) of the Framework.
17. In terms of wider landscape effects, the submitted Landscape and Visual Impact Assessment (LVIA) has appropriately considered the Essex Landscape Character Assessment (2003) (LCA). This shows that the site lies within landscape character area B1 'Central Essex Farmlands'. I would agree with its key characteristics as set out in the document, noting in particular the concentration of isolated moated farmsteads and its tranquil character away from major roads and the airport. I acknowledge that since the LCA was produced some twenty years ago major development has taken place around Little Canfield village, nonetheless the key characteristics have been retained in this part of character area B1.
18. The site benefits from substantial mature screening including a large wooded area to the north east. I noted on my site visit that views of the existing buildings on the site, including from surrounding PRoWs, are restricted from most viewpoints and only limited views are visible from a few short-range locations. Whilst the trees were in full leaf on my summer site visit, I note that the photographs of receptor locations were taken in spring when some deciduous trees were not yet in leaf. The photographs indicate that public views into the site were still very limited. Nonetheless, the historic moated site and extensive landscaping forms a positive feature in the landscape of the area.
19. Consequently, in view of the screening and lack of long distance views, I would agree with the assessments of both landscape and visual sensitivity as being low. I do not agree with the applicant that the magnitude of change would be negligible, rather it would be moderate. Nonetheless, I find the main effects would relate to the character and appearance of the site itself, coupled with the general aim within the Framework at paragraph 174 b) which recognises the intrinsic character and beauty of the countryside.
20. The applicant's rationale for the design of the dwellings relates to a concept of a 'country house estate'. Four distinct groups of dwellings are proposed around the application site; 1) the gatehouse, 2) workers cottages (the secret garden), 3) dance studio conversion and 4) stable block courtyard. The development areas are spread around almost the entire grounds, with only the wooded area to the north east corner and the southern garden area of the host dwelling being retained as existing.

21. The gatehouse area would comprise plots 1 and 2, two story detached houses within attractive grounds at the start of the sweeping tree lined entrance drive to the host dwelling. The submission indicates that the houses would take design references from the original dwelling including materials and joinery details. However whilst there are a limited range of traditional design features, I am unable to find many similarities, and instead they would appear as suburban style detached houses. They would both face inwards towards the internal access road, as opposed to outwards towards the main entrance gates as a traditional gatehouse would have done for surveillance purposes. Gatehouses to country estate houses of the Georgian/Victorian period are frequently small and characterful lodge buildings which would have originally served a security purpose at the entrance to the estate. I cannot find evidence that Canfield Moat originally had a gatehouse, and certainly not in this location.
22. The dwellings fail to demonstrate characteristics which the applicant states would *'provide the start of a passage through the estate taking the visitor on an architectural journey through the estate and on to Canfield Moat'*. Instead, I find these two detached dwellings would be incongruous within the grounds of the property and would fail to enhance its entrance. The dwellings would instead detract from it. Furthermore, the siting would potentially affect some of the adjacent mature trees, and I return to this matter later in this statement.
23. Plots 3 to 6 would be located in the 'secret garden' area of the grounds, a lawned area substantially enclosed by ornamental clipped hedges. The plots would comprise a two storey terrace of four smaller three bedroomed 'workers cottages' dwellings. Much like plots 1 and 2, I find them to be of a design and form akin to that seen on a suburban housing estate, and not reminiscent of estate workers cottage designs that might be seen in nearby villages or the estate of a stately home. The secret garden in which they would be located may well provide good screening, however the hedges would be punctuated to create two driveway accesses and a large amount of hard landscaping is proposed for parking and turning, eroding the intrinsic verdant character of the existing site.
24. Plot 7 is a modern rendered single storey building, a former triple garage and most recently a dance studio. Despite its modern appearance it appears relatively inconspicuous tucked behind the more traditional outbuildings associated with Canfield Moat, and the trees and hedging around the secret garden and to the western boundary provide some screening.
25. It is proposed to convert the building to a single storey dwelling, together with the erection of a glazed link to the neighbouring L-shaped outbuilding. This range of buildings (labelled as a 'storage barn') appear to be much older structures, possibly former stables. The building proposed for conversion is faced with various materials reflective of its age, including horizontal boarding typical of rural Essex, render and brick with large black painted timber doors under a part rosemary tile and part slate roof. As such, it is of a markedly different character to the modern garage/dance studio.
26. It is proposed to demolish large parts of the storage barn, together with substantial alterations to include raising its roof, removing the large doors and

adding smaller openings to create windows and doors to give it a much more modern and domestic appearance. This would be to the detriment of its original character. An external chimney breast would be added to the conversion, contributing further to an over-domestication of the character of both buildings. Furthermore, the demolition of part of the storage barn which runs along the western boundary and creation of a garden/parking area would harmfully alter the somewhat intimate and enclosed stable yard part of the grounds which lie between the barns and the former coach house. Here, the historic layout of the site can be appreciated. I return to heritage matters in the next section of this statement.

27. Plots 10 to 17 would be located on the largest area of lawned grounds, to the east of Canfield Moat between the wooded area and tennis courts. These structures are designed to resemble a large courtyard stable block. Gardens would be laid out with each two storey unit, subdividing the entire existing lawned area with 1.8m high close boarded fencing. A range of garages designed to resemble a coach house would be sited between the courtyard block and Canfield Moat. This would include a sizeable ten bay garage block with a central cycle store beneath a central clock/dovecote cupola to the centre. Solar panels would be located on the rear roofslope facing west, and electric vehicle and bike charging points provided to each garage. Two double detached garages would 'bookend' the large area of hardstanding in front of the main garage block.
28. The proposed buildings on this part of the site would be of substantial scale, dwarfing the existing host dwelling at Canfield Moat. Their pastiche design is of concern, given that the dwelling's original coach house remains in situ adjacent to the main house. The original coach house is of a much smaller scale and simpler, refined design which does not compete with its host dwelling. The proposed 'stable block' and 'coach house' type buildings would be much more distant from the house their scale and design more akin to that seen in the grounds of a stately home. Canfield Moat, whilst a large property of architectural merit, was formally a rectory and not a country house which would have been the centre of a large estate. Indeed, the former moat around the site would have contained the rectory and any previous older buildings within a much smaller area, restricting sprawl of other buildings. There is no evidence, either in situ or from the archaeological assessment, that there were other buildings outside of the former moat. The garden areas, with suburban style fences and domestic paraphernalia, would substantially erode the open lawns which contribute positively to the character and appearance of the site.
29. Efforts have clearly been made to attempt to tie together the proposed development in a 'country house estate' theme. Alone, some of the buildings display commendable design details and the addition of solar panels and electric parking points provide wider benefits. However, none of the proposed buildings display characteristics in common with the existing host dwelling nor other buildings which make up the site. Instead, they appear to aspire to belong to an altogether different type of country house.
30. Overall, I find the proposed development would be highly incongruous to the application site and its surroundings, resulting in significant harm to the character and appearance of the area. It is contrary to policy GEN2 of the

Local Plan which, amongst other things, requires development to be compatible with the scale, form, layout, appearance and materials of surrounding buildings. In turn, the development fails to meet the Framework's aims for achieving well-designed places as set out in section 12, contrary to paragraphs 130 and 134.

Non-Designated Heritage Assets

31. The host dwelling at Canfield Moat is a fine early Victorian former rectory, built around 1839. The two storey building has a range of interesting architectural features including a number of projecting bays and raised gables and parapets, pronounced cornice, tall chimneys and large Georgian style windows. Later extensions have been built to the side, which due to their subservient nature do not detract from the architectural qualities of the building. It is constructed primarily of yellow brick (with red brick to its original western elevation) under a slate pitched roof.
32. A number of historic outbuildings are grouped to the north west of the main house, including the aforementioned storage barns and a coach house (converted to a dwelling) of white render under a steep rosemary tiled roof with two side projections under slate monopitch roofs. The storage barns are narrow single storey part brick part render buildings under an overhanging roof of primarily rosemary tiles. The rear of the L-shaped barn, proposed to form part of dwelling unit 7, is partly faced with horizontal timber boarding characteristic of this part of Essex. The various materials, scale and design of these buildings suggest that they could have been the former stables and are of some age, possibly built at the same time as the coach house.
33. The representations from the former occupants of Canfield Moat indicate that the house was originally built for the Reverend Charles Lesingham-Smith, the Rector of the Church of All Saints at Little Canfield. They state that Lesingham-Smith was a Victorian polymath; as well as being a clergyman, he was a writer, poet and botanist, who subsequently left his literary collection to Christ's College Cambridge, where there is a Lesingham-Smith library. He also planted many of the trees surrounding the house, as evidenced in the illustrations in his books of poetry. After his death in 1872 the house continued to be used as the village rectory until it was sold by the Church in the mid-1930's. The subsequent owner is stated to be the brother of Earl Alexander of Tunis.
34. The Council has provided limited comment on the heritage value and significance of the site and the existing buildings, only to confirm that the host dwelling Canfield Moat is not listed. Nonetheless, following my observations on site and having regard to a number of third party representations (including from former occupants of the property), I find that the house and many of the outbuildings as a group are worthy of non-designated heritage asset status.
35. I acknowledge that the buildings are not included on the latest version of the Council's local list¹. Nonetheless, having regard to the selection criteria within

¹ Uttlesford Local Heritage List April 2021

the document and Historic England advice² which include rarity, aesthetic value, group value, archaeological interest, archival interest, and historical association with locally significant figures I consider that the vast majority of such selection criteria are met at Canfield Moat. As such, paragraph 203 of the Framework is applicable to my decision.

36. The status of the house as a non-designated heritage asset is not disputed by the applicant, who considers that the proposed development would enhance the setting and character of the asset, having regard to Historic England advice. Canfield Moat would indeed become more visible to an increased number of visitors to the site, however as previously set out, I disagree that the additional dwellings would enhance Canfield Moat; rather they would serve to detract from it. Whilst the rectory had a coach house and stables (which still exist in some form), it was not a 'country estate' and features such as gatehouses, workers cottages and a stable block of a significant scale akin to that proposed are highly unlikely to have previously existed on the site.
37. The proposed dwellings would both directly and indirectly affect the non-designated heritage assets. By virtue of their inappropriate siting, scale and design as I have discussed in the previous section, all of the proposed dwellings would result in harm to the setting of Canfield Moat. Furthermore, the alterations to and substantial demolition of the storage barns which are situated in close proximity to the existing Canfield Moat house and coach house would have a direct harmful impact on the significance of the non-designated heritage assets.
38. Whilst there do not appear to be any policies in the Local Plan which relate to non-designated heritage assets (other than archaeology), the proposals would conflict with paragraph 203 of the Framework which requires the effects of an application on the significance of such assets to be taken into account.

Archaeology

39. The site lies within an area of known archaeological interest. The Archaeological Desk-Based Assessment (September 2022) indicates that the site has a moderate to high potential for encountering remains associated with medieval activity. It notes that there is '*significant potential for groundworks associated with the proposed development to encounter evidence of the defensive ditch surrounding the enclosure as well as the buried remains of buildings and associated occupation features and deposits of medieval date within the moated enclosure itself*'. A low to moderate potential for encountering prehistoric and Romano-British remains has also been identified. The Assessment refers to previous investigations in 2009-10, which I requested submission of during consideration of the application. Appendix E of the applicant's further submissions dated 9 February 2023 include an Archaeological Monitoring Report (AMR) dated February 2010. This relates to the construction of the garage (which is now proposed to be converted to form unit 7) and pool house. At the site of the garage building evidence of the 5 metre wide moat was found during investigations, together with a number of finds dating from the 18th to 20th century.

² Historic England Advice Note 7 – Local Heritage Listing: Identifying and Conserving Local Heritage

40. The AMR indicates that the existing house lies within the earthworks of a medieval moat and that the outline of the backfilled moat remains as a landscape feature around the house, with only the southern end still containing water. There is reference to a 1777 Chapman and Andre map (Figure 7 of the desk-based Assessment) which shows the moat and an earlier building within the site which may have been, or contained parts of, an earlier medieval house. Having regard to this map and Figures 1 and 2 of the AMR, the northern section of the moat appears to encroach into the development area proposed for units 3 to 6. Mapping also indicates that the western section of the moat lies beneath existing outbuildings, which are associated with the development of unit 7. There are also indications that Roman settlement remains may be present in the wider grounds given the proximity of the site to the Roman Road (B1256), however such claims have not been investigated.
41. Whilst the desk-based Assessment is helpful in terms of indicating archaeological potential and providing the results of investigations in the wider study area, there do not appear to have been any other investigations on or around the application site since that reported in the 2010 AMR. The Assessment suggests that deposits may have been previously disturbed by 20th century development and landscaping. This assertion is not confirmed by the historic mapping which does not indicate the presence of any building to the north of the coach house around the site of the moat except for the garage/dance studio, where investigations were carried out in a relatively small and discrete area. As such, I find it likely that any deposits within other parts of the site would have remained relatively undisturbed.
42. The Assessment stresses that given the moderate to high potential of the site in archaeological terms, a programme of archaeological work will be necessary to determine the extent, depth and significance of buried archaeological features and deposits across the site. Given that the dwellings and associated services would require intrusive below-ground works to enable their construction, there is a risk that important archaeological remains would be encountered. Any adverse impacts are likely to be permanent and irreversible in nature. It is not currently possible to establish the full significance of any archaeological remains which may survive on the basis of the submission before me.
43. The presence of non-designated archaeological remains need not prevent development when considered in isolation, and I note the response from ECC Place Services' Historic Environment Consultant (9 November 2022) which recommends a pre-commencement condition. Nonetheless I would not be content to leave such further archaeological investigations to a condition, and consider that such surveys should be pre-determination. This is given the moderate to high likelihood of buried remains being of significance, and that their exact location and nature is unknown. The presence of significant archaeological deposits could affect the development and layout of buildings, which is particularly pertinent for units 3 to 6 which are in close proximity to the likely location of the moat.
44. To summarise, without further investigation, the proposed development has the potential to result in harm to archaeological features. There is insufficient

information to establish the effects of the proposed development on known and unknown features of archaeological interest that may be present on the site, and this is contrary to policy ENV4 of the Local Plan and paragraphs 194 and 203 of the Framework.

Access and Highway Safety

45. The site is located in a rural area which can only be reached from narrow lanes. As I set out earlier in this statement, access to local services is very limited and the majority of journeys would need to be undertaken by private car. I find the site to be in an inaccessible location which does not meet objectives for sustainable travel.
46. The Definitive Map indicates a comprehensive network of PRowS in the vicinity of the site. Footpath Little Canfield 14 runs along the access road to the site, leading to footpath 16 which extends along the track to neighbouring Moat Farm and beyond, whilst footpath 15 runs immediately alongside the northern boundary of the site. They provide links to wider routes beyond the immediate environs of the site.
47. There is limited information in the submission regarding the use of the paths, and how they might be affected by the proposed development given that their exact route and widths are unconfirmed. In particular, the construction of and operational use of the additional dwellings would increase traffic along footpath 14. It is proposed to widen this road to accommodate two way traffic. However this may affect the safety and use of the path and would irretrievably alter its character, and no mitigation proposals been submitted as may be necessary. ECC Highways have also raised concerns about the additional access onto footpath 16. I saw on my site visit that this is an existing gated secondary access but note that it would be intensified by the proposals.
48. The junction of the private road with High Cross Lane West would require alterations to achieve the visibility splays required by ECC Highways. The applicant provided a further plan as requested (Appendix D, Response 9 February 2023) to show further detail of the access including widening the private drive to 6m, a 7.2m radius to the Moat Farm access, and a 6.5m radius at the junction with High Cross Lane West. The plan and the annotated photographs appear to show 2.4m x 65m visibility splays, however it is unclear how this has been calculated given that ECC Highways require speed survey data to support the proposed splays which it says are not in accordance with DMRB.
49. There is also some ambiguity over whether wholly highway land would form the visibility splays, or if third party land would be affected. The highway boundary has not been marked on the drawings, neither have any roadside ditches (whether current or historical). Whilst there is a small verge, beyond it there are hedges bounding third party land and a dwelling is situated on this junction, with its front door and garage door leading directly onto the access road. I am uncertain whether such widening would be achievable without encroaching onto third party land. Furthermore, swept path analysis has not been provided to support the alterations to the High Cross Lane West access, nor for the turning area within the site.

50. Taking together the objections from the Highway Authority and third parties, and my observations on site, from the submission before me I do not consider that the site could be safely and suitably accessed by vehicles or pedestrians, contrary to Policy GEN1 of the Local Plan and paragraphs 110 and 112 of the Framework.

Biodiversity and Trees

51. The habitat conditions of the site (including trees and outbuildings) and surrounding area have potential for the presence of protected species under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017. I am obliged to consider the presence of protected species and the extent to which they may be affected by the proposed development before planning permission is granted³.
52. A range of documents have been supplied with the application in respect of both ecological and aboricultural matters. Amongst a number of other protected species surveys, a Bat Survey Report has been submitted relating to building B4 (the storage barns) only. This was assessed as having moderate bat roosting potential and the surveys did not record any bats emerging nor roosting. Any future bat activity relating to the buildings could be adequately dealt with by a further pre-construction survey.
53. The consultation response from ECC Place Services' Ecological Consultant raised concerns about the potential roosting of bats in tree T60 as noted for removal in the Arboricultural Impact Assessment (AIA). Conversely, the Ecological Impact Assessment states that the trees along the driveway (which would include T60) have features which may be suitable to support roosting bats, but that none of them would be affected by the proposed development so no further surveys were recommended.
54. In response to concerns from ECC Place Services, additional information was submitted by the applicant, stating that it is their intention to retain T60 as part of the development but, due to its lifespan, it is likely to require removal at some point in the next few years which is why it has been identified for removal on the AIA. An ecologist would be consulted prior to the tree being removed in the future, which would be post development. On re-consultation, ECC Place Services were satisfied that there is sufficient ecological information available to determine the application, and I would agree with this assessment. An Ecology Enhancement Plan and details of external lighting could also be secured by condition.
55. I saw on my site visit that a number of trees have already been removed, primarily around plot 2 within the 'gatehouse' area at the entrance to the grounds. Here, there remain a number of fine specimens of significant scale and canopy spread. Whilst they are not proposed for removal as part of the development, and I note that the AIA provides some assurance that they can be adequately protected during construction, they are in particularly close proximity to units 1 and 2. The canopy spread is significant and will increase over time, leading to pressure by future residents to remove these trees, due to matters such as overshadowing and overbearing effects, as well as detritus

³ Circular 06/2005, paragraph 99

from fallen leaves. Whilst alone this would not substantiate a reason for refusal, it adds to my concerns that the application site is inappropriate for residential development.

Flood Risk and Drainage

56. Whilst the vast majority of the site lies within flood zone 1, parts of the site lie within zone 2 as identified on the Environment Agency's flood map. These correspond to the moat/ ponds in the south west corner of the site, which is within the gardens to be retained for the existing dwelling at Canfield Moat. A sequential approach to development within the site has taken place, with all new buildings within flood zone 1 only.
57. The proposed development would significantly increase the impermeable areas within the site as set out on the LLFA technical assessment form. On site soakaways are proposed which would represent sustainable drainage systems (SuDS) however no infiltration tests have been undertaken, nor has the maximum rate of runoff been calculated. Drainage to existing ditches is also proposed but there is a lack of detail regarding the capacity and condition of such ditches. 18 cubic metres of attenuation storage is indicated on the drainage form but how this would be achieved is not detailed.
58. An objection was lodged by the LLFA, requesting further information in relation to infiltration capacity, size, form and location of the attenuation, calculations and design details of SuDS features. However despite my request such details have not been forthcoming, and as such insufficient information is available to enable me to make an informed decision regarding flood risk and drainage matters. This is contrary to Local Plan policy GEN3 and paragraph 169 of the Framework.

Other Matters

59. The Council's Housing Strategy, Enabling and Development Officer has confirmed that the proposed development triggers a requirement for 40% affordable housing in line with policy H9 of the Local Plan, and given the nature of the site that this should be in the form of an off-site contribution. I would agree that on-site affordable dwellings would be inappropriate given the unsustainable location of the site, and the private roads and grounds which are likely to require maintenance fees. The applicant does not dispute the need for affordable housing, however they have been unable to enter into a Section 106 Agreement with the Council. It is unclear from both the Council's response and the applicant's submission whether any other contributions are required. Nonetheless, no form of planning obligation has been submitted to address such matters and I am refusing the proposals for other reasons, therefore I have not considered such matters any further.
60. Local representations have referred to existing problems with water supply and pressure, as well as electrical supply. This is not supported by responses by the relevant consultees, however in the event that the application was approved the statutory undertakers would be obliged to ensure such matters were adequately dealt with. In terms of effects on local residents during construction, and a potential further deterioration in the condition of High Cross Lane West, such matters could be adequately addressed through a

construction management plan condition. Any covenants on the deeds for Canfield Moat restricting new buildings are not before me and are in any event a civil matter.

61. The Council and a number of consultees have recommended and requested conditions to be imposed should the application be permitted. Having reviewed these conditions I do not consider, considering the application as a whole, that their imposition would overcome or otherwise outweigh the harm I have found in my reasoning above.

The Planning Balance

62. 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. It has not been disputed that paragraph 11 d) of the Framework and the 'tilted balance' is applicable, and that the policies most important for determining the application are out-of-date given that the Council is unable to demonstrate a five-year supply of deliverable housing sites. Furthermore, the Local Plan was adopted in 2005, prior to the publication of the 2012 Framework. I understand that the draft of a new Local Plan for the district has not yet been published for consultation, therefore I am unable to attribute weight to it.
63. In relation to the first limb of paragraph 11 d), there are no clear reasons for refusal in relation to the areas or assets of particular importance referred to in footnote 7 of the Framework. The test at paragraph 11 d)ii of the Framework is therefore engaged, such that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
64. I have found in my reasoning above that the unsustainable location of the site, the effects of the proposed development on the character and appearance of the area, highway safety, non-designated heritage assets and lack of information in relation to drainage all lead to conflict with the Local Plan, over and above the site simply being beyond any settlement boundaries. Notwithstanding the diminished weight to be given to a number of out-of-date Local Plan policies most important for determining the application, I find that these adverse impacts would also conflict with policies in the Framework as set out in each of the main issues above. Such matters are significant adverse impacts which the Framework as a whole seeks to guard against.
65. In terms of benefits, the provision of 15 dwellings would represent a moderate benefit in the context of the housing land shortfall in the area and the Government's objective of significantly boosting the supply of homes. However given the lack of legal agreement, no benefits have been secured in terms of affordable housing, of which 40% (equivalent of 6 homes) should be provided off-site by way of a commuted sum. Whilst I acknowledge that some biodiversity enhancements are proposed and could be appropriately secured by condition, this benefit would be neutral given the amount of garden space and trees that would be lost to make way for the development. The installation of solar panels to the garage block would be beneficial in their

contribution to renewable energy sources, and the provision of electric charging points would assist in mitigating against harmful impacts to air quality. Nonetheless provision of such energy efficiency measures would not mitigate against the inaccessible location of the site and therefore the benefits would be neutral.

66. There would also be economic benefits arising from employment during construction and increased local spending, but these would be limited due to their generic nature. I also give limited weight to the stated social benefits arising from future residents' access to the swimming pool, tennis court, extensive grounds and neighbouring gymnasium. Whilst it is possible that social interaction between residents may result in a small community, such facilities are not public and there are no assurances that they would be shared with new residents.
67. In view of the limitations to such benefits, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole. As such, the proposal does not benefit from the presumption in favour of sustainable development set out in the Framework.

Conclusion

68. The proposed development, by virtue of its unsustainable location, effects on the character and appearance of the area and non-designated heritage assets, lack of information in relation to drainage proposals and potential effects on highway and pedestrian safety would significantly conflict with the Local Plan and the policies within the Framework when taken as a whole.
69. The application should therefore be refused for the reasons set out above.

Susan Hunt

Inspector and Appointed Person

Informatives

1. 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 is final. This 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.
2. 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

Uttlesford District Council (UDC) including:

- Environmental Health
- Housing Strategy Enabling Development

Cadent Gas Ltd

Essex County Council (ECC) including:

- Highways
- Lead Local Flood Authority
- Minerals and Waste Planning Authority

ECC Place Services:

- Ecology
- Historic Environment/Archaeology

Environment Agency

Essex Police – Designing out Crime

Gigaclear

Health and Safety Executive

Historic England

Little Canfield Parish Council

London Stansted Airport Safeguarding Authority

National Gas

National Highways

Natural England

Thames Water

UK Power Networks