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## Decision Notice and Statement of Reasons

Site visits made on 12, 13 and 14 February 2024

Hearing held on 13 February 2024

By S R G Baird BA(Hons) MRTPI

A person appointed by the Secretary of State

Decision date: 13 March 2024

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Application Reference: S62A/2023/0027

Site address: **Jack's Field**, Warish Hall Farm, Smiths Green Lane, Takeley, Essex CM22 6NZ

- 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 7 October 2023 is made by Weston Homes PLC and was validated on 31 October 2023.
  - The development proposed is the erection of 40 dwellings, including open space, landscaping and associated infrastructure.
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### Decision

1. Planning permission is granted for the erection of 40 dwellings, including open space, landscaping and associated infrastructure in accordance with the terms of the application dated 7 October 2023, subject to the conditions set out in Annex 1 - Schedule of Conditions.

### Statement of Reasons

#### Procedural and Preliminary Matters

2. The application was made under Section 62A of the Town and Country Planning Act 1990, which allows for applications to be made directly to the Planning Inspectorate where a Council has been designated by the Secretary of State. Uttlesford District Council (UDC) has been designated for major applications since 8 February 2022.
3. Screening by the Planning Inspectorate under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) found that the proposed development would not be of a scale or nature likely to give rise to significant adverse effects. As such, an Environmental Impact Assessment was not required, and the requirements of the Regulations have been complied with.

4. Consultation was undertaken on 3 November 2023 which allowed for responses by 8 December 2023. Responses were received from the parties listed in Annex 1 of this statement. UDC, the local planning authority (lpa) was granted an extension of time until the 15 December 2023 to allow the Planning Committee to consider the application. Interested parties and residents submitted responses.
5. UDC provided a consultation response on 14 December 2023 objecting to the application. The consultation response was accompanied by an officer report (OR) to the Planning Committee, details of the Smiths Green Conservation Area (CA), a 5-year Housing Land Supply Statement and Housing Trajectory (HLS) and a draft S106 Agreement relating to a previous S62A application on this site (S62A/2023/0016).
6. On 1 February 2024, an agenda for the public Hearing and an Issues Report (IR) prepared under the provisions of the Town and Country Planning (Section 62A Applications) (Hearings) Rules 2013 were published. The IR included a description of the development, consultation details, material considerations, and explored the main issues to be considered. The Hearing, attended by representatives of the applicant, officers of UDC and Essex County Council (ECC), Ward Councillors, a representative of Takeley Parish Council and interested persons, was held on 13 February 2024 at the offices of UDC in Saffron Walden.
7. Three visits to the site and its surroundings were carried out. The first, on 12 February 2024, was unaccompanied and the site was viewed from public vantage points. A second unaccompanied visit was made on the evening of 13 February 2024 to observe night-time conditions. A third accompanied site visit was made on the 14 February 2024 to clarify the extent of the southern visibility splay. The accompanied visit was followed by an unaccompanied access required inspection of the site and its surroundings.
8. At the Hearing, the following documents were requested,
  - a) a revised list of planning conditions,
  - b) confirmation of the **applicant's** acceptance of pre-commencement conditions,
  - c) a copy of an email confirming the dropping of a request by ECC for a Primary School Transport Contribution,
  - d) a copy of a completed S106 Agreement.
9. The S106 Agreement contains a range of obligations. These are, the provision of affordable housing (AH) including First Homes, wheelchair accessible housing and public open space, contributions to provide for, additional primary and secondary school places, secondary school pupil transport, library enhancements, works to improve public rights of way (PRoW), sustainable transport measures and monitoring fees. Pursuant to Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regs), UDC submitted a CIL Compliance Statement.

10. In December 2023 revisions to the Framework changed the way a lpa calculates the 5-year housing land supply (HLS). Using the new format, UDC can show a 4.5-year HLS. Prior to the Hearing, the parties were given the opportunity to comment.
11. Smiths Green Lane is also known as Warish Hall Lane and for the purposes of this decision, the former is used. The grass verges on either side of Smiths Green Lane are registered as a village green. The provision of an access over a village green would require a separate application to the Secretary of State under S16 of the Commons Act 2006.
12. All written and oral representations have been taken account in reaching this decision.

### Main Issues

13. These are:
  - a. whether the location of the development accords with the development plan strategy,
  - b. whether the proposed development is accessible and would be acceptable in terms of highway safety and biodiversity,
  - c. the effect on the character and appearance of the area,
  - d. the effect on heritage assets,
  - e. the effect on biodiversity,
  - f. whether adequate provision would be secured to provide for additional facilities, including transport, education, community facilities, and open space arising from the development,
14. As indicated in the IR, it is necessary to assess the benefits of the application, the consequences of the HLS and balance these against any harm that might arise. This is dealt with as the Planning Balance.

### Reasons

#### *Planning History*

15. **Jack's Field** formed part of a larger site known as Warish Hall Farm. That site comprised land to the west of Smiths Green Lane and **Jack's Field** to the east of the lane. On this site, an application for 188 dwellings of which **38 were on Jack's Field**. UDC refused the application<sup>1</sup> in December 2021 and an appeal<sup>2</sup> was dismissed in August 2022.

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<sup>1</sup> UTT/21/1987/FUL.

<sup>2</sup> APP/C1570/W/22/3291524

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16. In April 2022, an application<sup>3</sup> under S62A for the erection of 40 dwellings, including open space, landscaping, and associated infrastructure **on Jack's Field**. Planning permission was refused in August 2023. A duplicate application<sup>4</sup> was refused by UDC on 12 February 2024.
17. In June 2023, an application<sup>5</sup> under S62A for the erection of 96 dwellings on land to the west of Smiths Green Lane. Planning permission was refused in December 2023.

*Development Plan and Housing Land Supply*

18. The relevant part of the development plan is the Uttlesford District Local Plan 2005 (ULP). A list of relevant ULP policies and Supplementary Planning Documents are published on the Government web site.
19. A draft LP has been published and the Regulation 18 consultation stage has been completed. UDC confirmed that the draft plan does not include a Proposals Map and acknowledges that The plan is at an early stage of preparation. Whilst a material consideration, the draft plan attracts negligible weight in the determination of this application.

*Issue A - Location and Principle of Development*

20. ULP Policy S3 lists Takeley as a Key Rural Settlement. Takeley has a range of facilities and services commensurate to its status in the settlement hierarchy. The site sits outside the development limits of Takeley where ULP Policy S7 restricts new development. In the countryside, which will be protected for its own sake, planning permission will only be given for development that needs to take place there or is appropriate to a rural area. The site lies within the Countryside Protection Zone (CPZ) defined by ULP Policy S8. This policy seeks to control development around Stansted Airport. Here, development is restricted if it would (a) promote coalescence between the airport and existing development or (b) it would adversely affect the open characteristics of the area.
21. Since the adoption of the ULP, Takeley has experienced significant expansion, particularly to the east with the Priors Green Urban Extension (UE). This UE contains a local centre comprising, a small supermarket, a dental practice, a café, a restaurant, a community hall, a day nursery and a primary school. The scale and nature of the local centre would meet the day to day needs of the proposed development. Accessibility to the local centre from the development by means other than the private car is dealt with later. Regarding ULP Policy S8 part a, as Inspectors in the previous appeals and applications<sup>6</sup> have noted, there is significant countryside separation to Stansted Airport. As such, the physical role that the site

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<sup>3</sup> S62A/2023/0016.

<sup>4</sup> UTT/22/3126/FUL.

<sup>5</sup> S62A/2023/0019.

<sup>6</sup> APP/C1570/W/22/3291524, S62A/2023/0016 and S62A/2023/0019.

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plays in preventing coalescence is limited. The development would not conflict with part a of ULP Policy S8. The remaining provisions of ULP Policy S8, part b, are dealt with later.

22. Although the development would adjoin the settlement boundary of Takeley and UDC acknowledges that land outside settlement boundaries will need to be found to meet its housing needs, the proposal would conflict within ULP Policy S7. That said, the scale of development, **the site's** location and proximity to local services is compatible with the Key Rural Settlement status of Takeley (ULP Policy S3).

#### *Issue B - Accessibility*

23. ULP Policy GEN 1 requires developments to be designed so that they do not have unacceptable impacts upon the existing road network, road safety, take account of the needs of other users and encourage movement by means other than a vehicle.
24. Framework paragraph 114 says that when assessing development applications, regard should be had to its location, ensuring that: appropriate opportunities to promote sustainable transport modes can be or have been taken up; safe and suitable access can be achieved for all users; and any significant impacts from the development on the transport network can be mitigated. Framework paragraph 115 says that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
25. The Inspector in the previous S62A application noted that the highway authority (HA)<sup>7</sup> did not object to the access, internal road layout or parking provision subject to a number of conditions. The Transport Assessment (TA) indicates that there is sufficient capacity on the local highway network for the predicted traffic movements, and National Highways do not object. My colleague concluded that there would not be severe cumulative impact on the road network from the predicted traffic movements and I have no reason to disagree. In this context, the considerations around accessibility and highway safety primarily relate to safe and suitable access for pedestrians and cyclists.
26. In relation to the use of Smiths Green Road and PRoW 40 Takeley, since the last application, nothing has changed, in terms of their suitability to provide suitable pedestrian/cycle provision for users at all times of the year. The development would generate some 20, 2-way traffic movements on Smiths Green Lane during the morning and evening peaks and some 15, 2-way trips per hour, between 0700 to 1900 hours. This represents a low level of traffic generation that would not materially affect safe use of the lane. However, since the last application, the alternative pedestrian/cycle route along the eastern side of the site via the PRoW to the Priors Green

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<sup>7</sup> Essex County Council.

local centre has been included within the application. This local centre, located on a bus route, has a range of facilities that would satisfy the majority of the day-to-day needs of residents and is the place that most residents of this development would gravitate to.

27. The previously highlighted conflict between providing for the requirements of a safe route that meets requirements for a multi-use Byway and mitigating the impact of those works on the biodiversity value of the route have been addressed. The proposal is for 6m high lighting columns and a 3m wide surfaced footpath from the eastern edge of the application site to the junction of the Byway with Burgattes Road next to the local centre. I am satisfied that a lighting scheme that meets the requirements of the HA and acceptably mitigates the impact on nocturnal animals can be provided. There is sufficient width either side of the existing path to allow for a surfaced path to be constructed without materially affecting the existing tree/shrub planting. The implementation and subsequent maintenance of the scheme would be provided for by conditions and S106 obligations.
28. Subject to details being submitted in line with the proposed conditions and S106 Agreement, safe and suitable access would be provided for all users without significant impact on the highway network in terms of capacity and highway safety. Accordingly, the application would accord with Framework paragraph 111 and 115 and ULP Policy GEN1.

#### *Issue C – Character and Appearance*

29. The site is located outside the settlement boundary of Takeley in the open countryside, which the ULP seeks to protect for its own sake. Development is limited to that which needs to take place there or is appropriate to a rural area and protects or enhances local character (ULP Policies S3 and S7). Reference is made earlier to the location of the site within the CPZ where ULP Policy S8 (b) indicates that development that would adversely affect the open characteristics of the area will not be permitted. ULP Policy GEN2 relates to design and amongst other things seeks developments that are compatible with the scale form, layout appearance and materials of surrounding buildings. The site is not located within a local or nationally designated landscape, nor is it a Valued Landscape for the purposes of Framework paragraph 180 (a). Framework paragraph 180 (b) requires that planning decisions should contribute to and enhance the local environment by recognising the intrinsic character and beauty of the countryside.
30. Of the various reports detailing landscape character, the most relevant is the Uttlesford Landscape Character Assessment 2006<sup>8</sup> (ULCA) where the site is located in Landscape Character Area (LCA) B10 Broxted Farmland Plateau. The Key Characteristics of this LCA are, a large open landscape with tree cover appearing as blocks on the horizon or as scattered trees along field boundaries, with intermittent hedgerows, higher ground where plateau broadens and flattens is expansive and full of big sky views,

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<sup>8</sup> Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments 2006.



dispersed settlements and few villages of any size, some sunken lanes and moats, halls and historic farmsteads scattered over the area. The UCLA considers this LCA to have a Moderate to High Sensitivity to change. Several of the above characteristics are recognisable in the landscape to the north of the settlement. These include, medium sized arable fields bounded by hedgerows and ditches, small woods/copses, and a network of narrow lanes. Of the Key Planning and Management Issues listed for this LCA, those most relevant are pressures from, increased traffic on rural lanes and erosion of verges and from the expansion of village settlements which may be detrimental to landscape character.

31. The application is accompanied by a Landscape and Visual Impact Assessment (LVIA). Given that significant development has taken place in and around Takeley, Smiths Green and Little Canfield since 2006, I agree with the LVIA that the overall landscape sensitivity of the area around the site is no more than Moderate. The grassland, hedgerows, trees, within the site are neither rare nor important examples in the wider LCA. Given the **site's** close association with the settlement edge, its use as managed farmland and proximity to the airport, the site has limited scenic quality. The site has a typical character and exhibits few special qualities of its own, resulting in a landscape of no more than local value in the context of the adjacent settlement. The contained nature of the site, its ordinary condition and limited scenic quality would allow residential development to be introduced without significant adverse landscape character effects. Development here would not significantly change the landscape pattern and grain of the settlement edge.
32. The landscape strategy<sup>9</sup>, except for the removal of part of the hedgerow on the Smiths Green Lane frontage, provides for the remaining boundary trees and hedgerows to be retained and reinforced. With a carefully designed and executed landscaping scheme, the maturing landscaping would soften and integrate the development into the immediate landscape and townscape. That said, given the permanent change from open agricultural land to housing, the result would be a Substantial Adverse effect on the landscape character of the site and a Minor Adverse effect on the landscape character of the wider area.
33. Visibility of the site is highly localised and well defined by surrounding vegetation. The greatest change in views would be experienced by walkers on PRoW 48-25 on the eastern boundary, a short length of Jacks Lane between PRoWs 48-43 and 48-25, a short stretch on Smiths Green Lane next to the access and private views from several properties on Jacks Lane. Given the high sensitivity of these receptors, the proximity of viewing locations and the prominence of the new houses there would be a material change in the character and composition of these views. Initially, the visual impact of the development on the localised views would be Moderate

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<sup>9</sup> Drawing No. 2951-LA-04 Rev PO2.

Adverse whilst the effect on users of the PRow 48-25 and the occupants of Maggots Cottage would be a Moderate-Substantial Adverse effect.

34. Mitigation measures would include new hedgerow on Smiths Green Lane behind the visibility splay, reinforcement of the remaining hedgerows. In time, these measures would reinforce the hedgerow network and field pattern on the edge of the agricultural landscape. Tree and shrub planting, within the development would further enhance the development. By Year 15, the visual effect of the development would be materially mitigated to no more than a Minor Adverse effect on visual amenity.
35. Both the Ipa and others refer to harm arising from light spill from the development on the experience of users of Smiths Green Lane. Notwithstanding the very significant and intrusive sky glow to the west and south-west, development along Smiths Green Lane, Jacks Lane and to the south and south-east appear to generate limited sky glow. Given their set back and boundary screening, existing properties fronting Smiths Green Lane generate limited light spill towards the lane.
36. No street lighting is proposed for Smiths Green Lane or within the application site. The HA confirmed that the absence of street lighting within the development would not prevent the estate road being adopted. The houses would be set back from Smiths Green Lane behind landscaped areas either side of the access road. The only lighting that would be visible would be that escaping from a few individual dwellings and experienced from a short length of the lane in the immediate vicinity of the access. The density of the landscaping and screening is a matter that could be dealt with by a planning condition. From the experience of existing development on Smiths Green Lane and Jacks Lane, the potential light spill would be minimal and would have no material effect on the visual amenity or the overall experience of pedestrians and other users of Smith Green Lane.
37. Part b of ULP Policy S8 seeks to avoid adverse effects on the open characteristics of the CPZ. The 2022 appeal decision<sup>10</sup> and the 2023 application decision<sup>11</sup> found conflict with ULP Policy S8. However, these were for larger more open sites than the application site, which is well contained by mature hedgerows. As such, the proposal would not materially affect the open characteristics of this part of the CPZ.
38. Although, the layout, design and finishes of the development would result in a contemporary development, they would not be at odds with the overall character and appearance of existing mature and more recent developments in Takeley. Overall, the design, scale, form and layout of the dwellings are acceptable, consistent with national design guidance and accord with the objectives of ULP Policy GEN2.

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<sup>10</sup> APP/C1570/W22/3291524.

<sup>11</sup> S62A/2023/0019.

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39. With a carefully designed and executed landscaping scheme, the Minor Adverse landscape and visual effects on the character and appearance of the wider area would be acceptably contained. That said, residential development would result in the permanent loss of an open agricultural field and whilst it would not materially compromise the integrity of the CPZ, it would be conflict with ULP Policies S3 and S7.

#### *Issue D - Heritage*

40. The application is supported by Built Heritage and Archaeological Desk Based Assessments that assess the significance of the site and nearby heritage assets (HA). ECC list the designated HAs of concern as the Grade 2 listed Hollow Elm Cottage, the Grade 2 listed Cheerups Cottage and the Smiths Green CA. Other than noting the previous **Inspector's conclusions** regarding Hollow Elm Cottage and reference to the CA, ECC did not make further comment. The non-designated HA of concern is Smiths Green Lane, a Protected Lane. Historic England (HE) other than referring the Grade 1 listed Warish Hall, the Warish Hall Moated Scheduled Ancient Monument, and the effect on the CA, refers, in general, to designated HAs.
41. Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving Listed Buildings (LB), their settings, and any architectural features they may possess. ULP Policy ENV2 says that development proposals that adversely affect the setting a LB will not be permitted.
42. HE has no objection to the principle of development and acknowledges there is scope for development in keeping with rural character on the site. **HE's concerns** relate to the intensity of the development, light-spill and traffic generation eroding the tranquil rural character that contributes to the setting of the various assets. The effect on the character of the area and light-spill is dealt with earlier. As to traffic generation, this is referred to earlier where it is concluded that the development would result in a low level of traffic generation. This low level of additional traffic would not materially affect the character of the area or result in harm to the settings and significance of the various HAs.
43. The Grade 1 listed Warish Hall is a timber framed late 13th century hall house with later alterations and a complete rectangular moat, set within a larger moated enclosure. The moated site comprises the site of a Priory, founded between 1066 and 1086 and dissolved in 1391. The moated site and the grounds on which the Hall stand are a Scheduled Ancient Monument (SAM). The significance of these assets is derived from their architectural and historic interest. In physical terms, the wider setting of both HAs is limited by surrounding mature trees. In this context and given the degree of separation, the application site makes a neutral contribution to the setting of these HAs. Given the conclusion regarding traffic impacts, the degree of separation and screening, the proposed development would not result in harm to the significance of Warish Hall and the SAM.

44. Previously<sup>12</sup> ECC identified a low level of less than substantial harm to the Grade 2 listed Hollow End Cottage. The Cottage is a thatched, timber framed building that dates from at least the 17th century. Significance derives from its historic, architectural and artistic interest with its steeply pitched thatched roof and materials providing evidence of its historic construction. The Cottage is set at a right-angle to the road and is contained within a substantial garden by mature screen planting. The Cottage makes a positive contribution to the character and appearance of the area and can be appreciated in its semi-rural and tranquil setting along this sparsely developed section of Smiths Green Lane. In the 2022 appeal decision, whilst the Inspector found that development to the north and west of Smiths Green Lane would fail to preserve the setting of the cottage, development on Jacks Field was not identified as causing harm to the setting of the cottage. The Cottage is separated from the application site by intervening land and a screen of mature trees. Thus, given the absence of any direct physical or visual relationship between site and the asset, development would not harm the setting and as such the significance of Hollow End Cottage.
45. Cheerups Cottage is a 17<sup>th</sup> century single-storey building, with attics, located at the junction of Smiths Green Lane and Jacks Lane. The significance of Cheerups Cottage is largely derived from its historic, architectural and artistic interest as shown by the surviving historic fabric. Whilst the open countryside to the north-west contributes the historic rural setting of Cheerups Cottage and thus its significance, the same cannot be said for the application site. The more recent development immediately to the north and the woodland along the northern edge of Jacks Lane effectively screens the majority of views southwards from and to the site. In this context and given the degree of separation, there would be no harm to the setting and as such the significance of Cheerups Cottage.
46. As HAs, the CA and the Protected Lane are inextricably linked. The Smiths Green CA is a designated HA centred on the historic settlement. The character of the CA derives from its loose grain layout along the historic village green, the bulk of which is located to the south of the junction with Jacks Lane. As an agricultural field located on the edge of the settlement, the application site makes a moderate contribution to the setting and significance of the CA. The village green continues northwards beyond the CA boundary and comprises mostly the grass verges either side of Smiths Green Lane to the north of Jacks Lane.
47. Smiths Green Lane is a Protected Lane<sup>13</sup> and a non-designated HA. The significance of the Protected Lane is derived from its historic context in the village of Takeley, its narrow width and wide unlit grassed verges without footways, the mature hedgerows and general absence of street furniture. The lane is punctuated in several locations providing access to dwellings that line the lane, and around its junction with Jacks Lane. That part of the

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<sup>12</sup> S62A/2023/0016

<sup>13</sup> Uttlesford Protected Lanes Assessment March 2012.

lane abutting the site has a narrow verge backed by a mature deciduous hedge containing several poor-quality trees. Despite background noise from the nearby A120 and Stansted Airport, the lane generally exhibits a sense of tranquillity and rural character. That said, the contained nature of the site means that along a short length of the lane only glimpses of the site are obtained through the narrow, ungated field entrance. In this context, the site, largely due to its undeveloped and verdant nature, makes a moderate contribution to the significance of the non-designated HA. ULP Policy ENV9 indicates that development that would harm, amongst other things, Protected Lanes will not be permitted unless the need for the development outweighs the historic significance of the site.

48. Both the lpa and HE refer to harm arising from suburban encroachment affecting the legibility of the historic pattern of the settlement, the intensity of use and light spill on the experience of the users of the lane and its historic significance in its open, pastoral setting. Notwithstanding the contained nature of the application site, development would represent encroachment, albeit limited, reducing the legibility of the rural setting of the CA resulting in less than substantial harm to the CA. Light spill is dealt with earlier and is not repeated here. Overall, from the experience of existing development on Smiths Green Lane and Jacks Lane, the potential for light spill would be minimal and would have no material affect on the significance of the Protected Lane or the CA as HAs.
49. A single vehicle access with visibility splays would be created using and extending the existing field access. The access, including an internal verge and a combined footway/cycleway, would have a width of some 12.75m and a bell mouth of some 18.7m. Whilst the junction finish would be similar to that of others in Smiths Green, its scale would be uncharacteristic of the lane. The access and the required visibility splays of 2.4m by 43m, would be contained wholly within the application boundary. The northern visibility splay would be created through the trimming back of the hedge. However, to the south the splay would require the removal of some 32m of mature hedgerow<sup>14</sup>. The view along Smiths Green Lane from the north is identified in the CA Character Appraisal and Management Plan as a Key View<sup>15</sup>. The CA appraisal identifies that the village green and Protected Lane significantly contribute to the rural characteristics of the area that form the setting of the CA. Moreover, the 2022 appeal decision<sup>16</sup> noted that features such as roadside verges and hedgerows are an intrinsic part of the historical make-up of the Protected Lane. Whilst there appears to be sufficient space behind the visibility splay to replant a hedge as part of an overall landscaping scheme for the site, the removal of the hedge would in the short-term result in harm to the significance of the Protected Lane and a key view into the CA.

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<sup>14</sup> The extent of the southern visibility splay was agreed by the lpa and applicant at the accompanied site visit.

<sup>15</sup> Key View 8.

<sup>16</sup> APP/C1570/W/22/3291524.

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*Issue E - Biodiversity*

50. Development that would have a harmful effect on wildlife features will not be permitted unless the need for the development outweighs the importance of the feature to nature conservation (ULP Policy GEN7). The application is accompanied by ecological assessments and ECC has no objection subject to the imposition of conditions relating to the implementation of, the Ecological Appraisal recommendations, a Reptile Mitigation Strategy, a Construction Environmental Management Plan and a Landscape and Ecological Management Plan. NE has no objection to the application and no contribution is required to mitigate the impact of development on the Hatfield Forest Site of Special Scientific Interest and National Nature Reserve.
51. The site comprises a single arable field supporting a managed grassland, habitat of negligible ecological interest. Of greater interest are the mature species rich hedgerows that bound the site on the east, the south and the north-west along Smiths Green Lane. The hedgerows form corridors connecting Jack's Field to surrounding habitats including the ditch and hedgerow network in the wider landscape. Immediately to the south-west of and unaffected by the proposal is a small area of semi-natural woodland with features suitable for supporting a bat roost. The hedgerows, associated field margins and to a lesser extent the grassland provide suitable foraging, commuting and hibernating habitat for common and widespread reptiles and assemblages of common invertebrate species. Bird surveys identified the presence of a number of species protected under the NERC Act 2006 and/or species listed on the Red List. These species were generally associated with the hedgerows, which provide suitable nesting, foraging and commuting habitats. However, inclusion on these lists does not indicate that, for the most part, the species are rare or subject to an immediate threat of extinction.
52. Apart from the relatively short length on hedgerow to be removed on the Smiths Green Lane frontage, the boundary hedging would be retained and reinforced as part of the landscaping and mitigation proposals. Appropriate measures can be put in place to encourage reptiles away from the construction areas into the nearest suitable habitat. Biodiversity enhancement measures proposed include, bird and bat boxes, log piles, permeable fencing and the creation of meadow grass margins. As indicated earlier street lighting is not proposed for the development. All of the above could be ensured through the suite of conditions referred to above.
53. **Objections to the scheme refer to the site being an "irreplaceable habitat"** and draw attention Framework paragraph 11 (d) (i) and Footnote 7 **suggesting that the reference to the loss of "...irreplaceable habitats..."** constitutes a clear reason for refusing the application. The Framework at Annex 2 contains a specific definition of irreplaceable habitat. These are habitats that would be technically very difficult, or take a very significant time, to restore, recreate or replace once destroyed, taking account of their age, uniqueness, species diversity or rarity. Here, the arable managed

grassland is of negligible ecological interest and is not irreplaceable. Whilst the hedgerows possess greater ecological interest, only a relatively short stretch would be removed and replaced, with the remainder reinforced and managed through conditions.

54. With the mitigation measures proposed, the development would not have a significant adverse effect on biodiversity or conflict with the ULP Policy GEN7. Imposition of appropriate conditions would satisfy the duty set out in S40 of Natural Environment and Rural Communities Act 2006.

*Issue F – Provision for Infrastructure and Facilities*

55. ULP Policy GEN6 indicates that development will not be permitted unless it makes provision for community facilities, school capacity, public services, transport provision, drainage and other infrastructure made necessary by the development.
56. A completed S106 Agreement has been submitted and provides for infrastructure and facilities to mitigate the impact of the development. These are:
- a) 40% of the dwellings (16) to comprise Affordable Housing (AH) of which 4 would be provided as First Homes,
  - b) the provision and maintenance of an equipped Local Area of Play,
  - c) a Health Care Contribution of £51,680 to mitigate the impact of the development on Primary Healthcare provision in and around Takeley,
  - d) a contribution to upgrade local libraries,
  - e) a Primary Education Contribution for the education and/or care of children between the ages of 4 to 11 including those with special educational needs,
  - f) a Secondary Education Contribution for the provision of facilities for the education and/or care of children between the ages of 11 to 19 including those with special educational needs at Forest Hall School, and/or education facilities in the vicinity,
  - g) a Secondary School Transport Contribution for the transportation of children generated by the development to a secondary school with capacity,
  - h) a Sustainable Transport Contribution of £112,000 towards measures to enhance sustainable transport including new and expanded bus services serving the development and cycling infrastructure to/from Stansted Airport and Takeley,

- i) highway works, (a) improvement works and lighting to the Byway from Burgattes Road to the pedestrian entrance to the site and (b) the provision of 2 bus stops on the B1256 Dunmow Road close to the junction with Smiths Green Road,
  - j) a Bus Infrastructure Commuted Sum of £2,885.82 for the maintenance of the bus shelters on the B1256 Dunmow Road,
  - k) £134,750 for the maintenance of the improved Byway surfaces and lighting,
  - l) provide the first occupier of each dwelling with a Residential Travel Information Pack including Travel Vouchers,
  - m) payment of monitoring fees to ECC and UDC.
57. The provision of 40% AH achieves the aims of ULP Policies H9 and H10. Calculated based on a standard formula, the public transport, highways, monitoring, library and education related contributions reflect the calculations and assumptions made by ECC in the CIL compliance schedule. Obligations relating to the improvements of the pedestrian link to the Priors Green local centre, provision of a play area, Residential Travel Information Packs, travel vouchers and bus shelters would be fairly and reasonably related to the development proposed and meet the statutory tests.
58. The Agreement includes a Health Care Contribution for the provision of additional Primary Healthcare capacity to accommodate patient growth generated by the development. The financial contribution is justified by a submission by the Hertfordshire and West Essex Integrated Care Board and would be fairly and reasonably related to the nature and scale of the development proposed.
59. The completed Agreement would satisfactorily address the impact of the development, comply with ULP Policy GEN6, Framework paragraph 57 and R122 of the CIL Regulations and has been taken into consideration when concluding on this application.

## Other Matters

### *Flood Risk, Drainage and Water Supply*

60. The Environment Agency identifies the site as being with Flood Risk Zone 1, where the risk of flooding is considered low. The Flood Risk Assessment indicates that with the implementation of a SuDS strategy, the development would not increase the risk of flooding onsite or elsewhere. ECC as the Local Lead Flood Authority has no objection subject to the imposition of conditions.
61. Concerns about sewage capacity and water supply is not supported by consultation responses from Thames Water and Affinity Water. When an



application is approved, the statutory undertakers are obliged to ensure such matters were adequately dealt with. The proposal would not conflict with ULP Policy GEN3 and Framework paragraph 175 regarding sustainable drainage systems.

#### *Agricultural Land*

62. **The applicant's Planning Statement identifies that that based on the** Regional Agricultural Land Classification Map, the development would result in the loss of some 2.3ha of Grade 2 – Good agricultural land, which falls within the category of Best and Most Versatile (B&MV). However, it is recognised that the Strategic Map data has limitations. As such this data is best suited for strategic planning rather than detailed site assessments. That said the ULP acknowledges that over 80% of the district is classified as Grade 2 and previous work for the emerging local plan indicated that there are few previously developed or brownfield sites within the district and providing for future housing growth would require the use of B&MV land.
63. At 2.3ha, the site forms a small proportion of B&MV land across the district and is not significant. Moreover, as the land is laid to grass and given its contained nature and awkward shape it is likely to be less suitable and accessible for large farm machinery. The proposal would not conflict with the objectives of ULP Policy ENV5 or the Framework.

#### *Noise*

64. The application is supported by a Noise Assessment. However, the measurements on which its conclusions are based were taken between the **6 and 10 April 2021 when, as part of the Government's response** to the Covid 19 Pandemic, there was a ban on non-essential travel, and other shops and businesses were closed. The application site is located in the vicinity of Stansted Airport and the A120 both considered to be dominant noise sources that could impact on future occupiers of the development. As such, the noise levels recorded during the assessment period may not be representative. The mitigation of noise could be dealt with by condition.

#### *Air Quality and Contamination*

65. ULP Policy ENV14 states that any proposal on contaminated land needs to take proper account of the contamination. An Air Quality Assessment and a Phase 1 Mitigation desk study have been submitted. The Environmental Health Officer (EHO) raises no objection to the proposed development subject to the imposition of conditions.

#### *Benefits*

66. Given the absence of a 5-year HLS and **the Government's emphasis on** significantly boosting the supply of homes,<sup>17</sup> the provision of 40 dwellings

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<sup>17</sup> Framework paragraph 60.

of which 16 would be provided as affordable homes would represent social benefits attracting significant weight respectively. The creation of employment during the construction period, the boost to local spending as economic benefits and the provision of the open space/play area as a social benefit would attract limited weight. Biodiversity improvements benefits and the provision of electric charging points would attract neutral weight in the planning balance.

### The Planning Balance and Conclusion

67. Framework paragraphs 195 and 205 identify that HAs are irreplaceable resources and should be conserved in a manner appropriate to their significance, with great weight attached to their conservation. Framework 208 indicates that where a proposal would lead to less than substantial harm to a designated HA, that harm should be weighed against the public benefits of the proposal. Framework paragraph 209 indicates that for applications that directly or indirectly affect a non-designated HA, a balanced judgement is required having regard to the scale of any harm or loss and the significance of the non-designated HA.
68. Whilst the development would preserve the setting of the various listed buildings, it would result in less than substantial harm to the CA and the Protected Lane. I attach great weight and importance to these harms. That said, judged against the public benefits identified in paragraph 74 above, these harms do not provide a clear reason for refusal<sup>18</sup>.
69. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework contains relevant national planning policies and is an important material consideration. The central aim of the Framework is to achieve sustainable development with a presumption in favour of such development. For decision making, the presumption means, approving development proposals that accord with an up-to-date development plan without delay. Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, which for applications for housing is where the Ipa cannot show a 5-year supply of deliverable housing land, planning permission should be granted unless: (a). the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (b). 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 (Framework paragraph 11d). This process is commonly referred to as the Tilted Balance. UDC acknowledges that it cannot demonstrate a 5-year housing land supply and that the Tilted Balance is engaged.
70. The development would not materially compromise the integrity of the CPZ. With a Minor Adverse effects on landscape character and visual amenity

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<sup>18</sup> Framework Footnote 7.

and the less than substantial harm to the CA and Protected Lane, the proposal would conflict with ULP Policies S3 and S7. My attention was drawn to various decisions where the varying levels of weight have been attached to ULP Policy S7. This policy is based on, an assessment of housing demand that no longer applies (ULP Policy H1) and the protection of the countryside for its own sake and is inconsistent with Framework paragraph 180. Accordingly, the weight attached to the conflict with ULP Policy S7 is reduced.

71. On balance, the adverse impacts of the development would not significantly and demonstrably outweigh the economic, social and environmental benefits attached to this proposal, particularly the contribution to the provision of market and affordable housing, when assessed against the policies in the Framework taken as a whole. Accordingly, and having taken all other matters into consideration, planning permission is granted.

#### Conditions

72. The suggested planning conditions were discussed at the Hearing and a revised list was submitted. The conditions have been considered against the advice at Framework paragraph 56 and in Planning Practice Guidance. The Schedule of Conditions includes several pre-commencement conditions, and the applicant has confirmed in writing acceptance of these conditions. Where necessary in the interests of precision, enforceability and to comply with the PPG guidance some of the conditions have been amended.
73. Condition 1 is a standard condition applied to planning permissions. Condition 2 lists the approved plans and is imposed in the interests of certainty. Conditions 3, 6, 7, 18 and 24 are necessary to conserve and enhance biodiversity. Condition 4 is necessary to mitigate the impact of the development on Stansted Airport. Conditions 5, 8, 19, 20, 21 and 22 are necessary in the interests of highway safety. Conditions 9, 10, 15, 16 and 17 are necessary to mitigate the impact of the development on flood risk. Conditions 11 and 14 are necessary in the interests of the appearance of the area. Conditions 12 and 13 are necessary in the interests of protecting the living conditions of future residents. Condition 23 is necessary to comply with the Framework and ULP Policy ENV4.

*George Baird*

Inspector and Appointed Person

## Annex 1 - Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

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

2. The development hereby permitted shall be carried out in accordance with the approved plans:
  - WH202.WST.P1.ZZ.DR.PL.05.01 Rev A - SITE LOCATION PLAN
  - WH202.WST.P1.ZZ.DR.PL.10.06 Rev C - Masterplan - MASTER PLAN - BOUNDARY TREATMENT
  - WH202.WST.P1.ZZ.DR.PL.10.07 Rev B - Masterplan - MASTER PLAN - PARKING
  - WH202.WST.P1.ZZ.DR.PL.10.09 Rev B - Masterplan - MASTER PLAN
  - WH202.WST.P1.ZZ.DR.PL.10.10 Rev B - Masterplan - MASTER PLAN - TRAFFIC CONTROL
  - WH202.WST.P1.ZZ.DR.PL.10.50 - PRIORS GREEN ACCESS DETAILS
  - WH202.WST.P1.ZZ.DR.PL.10.51 Rev 02 - JACKS GREEN JUNCTION WORKS - COLOURED
  - WH202.WST.P1.ZZ.DR.PL.10.53 Rev A1 - JACKS GREEN JUNCTION WORKS - TOPO
  - WH202-22-15.5-102 Rev A1 - Construction Detail
  - WH202-22-15.11-103 Rev A1 - Off Site Connection 1 of 2
  - WH202-22-15.11-104 Rev A1 - Off Site Connection 2 of 2
  - WH202.WST.P1.ZZ.DR.PL.05.02 Rev A - SITE OWNERSHIP PLAN
  - WH202.WST.P1.ZZ.DR.PL.30.01 Rev C
  - WH202.WST.P1.ZZ.DR.PL.30.02 Rev C
  - WH202.WST.P1.ZZ.DR.PL.55.01B - House Type B1 Jacks Green
  - WH202.WST.P1.ZZ.DR.PL.55.02B - House Type C1 Jacks Green
  - WH202.WST.P1.ZZ.DR.PL.55.03A - House Type 2C Jacks Green
  - WH202.WST.P1.ZZ.DR.PL.55.04B - House Type 3B Jacks Green
  - WH202.WST.P1.ZZ.DR.PL.55.05B - House Type 3C Jacks Green
  - WH202.WST.P1.ZZ.DR.PL.55.06B - House Type 4C Jacks Green
  - WH202.WST.P1.ZZ.DR.PL.05.03 Rev A - 106 LOCATION PLAN
  - WH202.WST.P1.ZZ.DR.PL.55.07B - House Type 4D Jacks Green
  - WH202.WST.P1.ZZ.DR.PL.55.08 - House Type 5A Jacks Green
  - WH202.WST.P1.ZZ.DR.PL.55.09 - Typical Garages Jacks Green
  - WH202.WST.P1.ZZ.DR.PL.55.10A - House Type 1A Jacks Green
  - WH202.WST.P1.ZZ.DR.PL.55.11B
  - 2951-LA-04 Rev P02 - Illustrative Landscape Masterplan
  - 2007045-TK33 Rev A - Swept Path Analysis Refuse Vehicles
  - 2007045-TK34 Rev A - Swept Path Analysis Fire Tender
  - WH202.WST.P1.ZZ.DR.PL.10.00 Rev B - Masterplan - MASTER PLAN - COLOURED SITE
  - WH202.WST.P1.ZZ.DR.PL.10.01 Rev B - Masterplan - MASTER PLAN - GA

- WH202.WST.P1.ZZ.DR.PL.10.02 Rev B – Masterplan - MASTER PLAN - REFUSE STRATEGY
- WH202.WST.P1.ZZ.DR.PL.10.03 Rev B – Masterplan - MASTER PLAN - FIRE STRATEGY
- WH202.WST.P1.ZZ.DR.PL.10.04 Rev B – Masterplan - MASTER PLAN - HARD LANDSCAPING
- WH202.WST.P1.ZZ.DR.PL.10.05 Rev C – Masterplan - MASTER PLAN - AFFORDABLE HOUSING

REASON: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment, in accordance with the Policies of the adopted Uttlesford Local Plan (2005).

3. All ecological mitigation, compensation, and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Ecology Solutions, October 2021), Ecology Update and Walkover Survey (Ecology Solutions, September 2022), Bat Survey Report (Ecology Solutions, November 2021) and Lighting Impact Assessment Rev R3 (MMA Lighting Consultancy Ltd. December 2023), as submitted with the planning application. This will include the appointment of an appropriately competent person e.g., an Ecological Clerk of Works (ECoW) to provide on-site ecological expertise during construction.

REASON: To conserve and enhance protected and Priority species and allow the Local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and S40 of the Natural Environment and Rural Communities Act 2006 (Priority Habitats & Species), in accordance with Policy GEN7 of the adopted Uttlesford Local Plan (2005).

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or enacting that Order), Schedule 2, Part 1, Classes A-F, no reflective materials other than clear or obscure glass, including solar PV panels shall be installed without the express consent of the local planning authority.

REASON: To prevent ocular hazard and distraction to pilots using Stansted Airport, in accordance with policy GEN2 and GEN4 of the adopted Uttlesford Local Plan (2005).

#### PRIOR TO COMMENCEMENT CONDITIONS

5. No works shall take place until a Construction Environmental Management Plan: Construction (CEMP: Construction) has been submitted to and approved in writing by the local planning authority. The CEMP: Construction shall include but not be limited to the following:

- a. The construction programme and phasing.
- b. Construction vehicle access arrangements.
- c. Hours of operation, delivery, and storage of materials.
- d. Details of any highway works necessary to enable construction to take place, including a before and after survey to identify defects to the highway adjoining the access to the site and where necessary ensure repairs are undertaken where damage is caused by construction vehicles travelling to and from the site.
- e. Parking arrangements, for site operatives and visitors.
- f. Arrangements for the loading, unloading and storage of plant and materials.
- g. Details of hoardings.
- h. Management of traffic to reduce congestion including the routing of construction vehicles.
- i. Control of dust and dirt on the public highway including wheel and underbody washing facilities.
- j. Details of consultation and complaint management with local businesses and neighbours.
- k. Waste minimisation and management proposals.
- l. Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour.
- m. Details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures and,
- n. Measures to protect any public rights of way within or adjacent to the site.

Development shall be carried out in accordance with the approved CEMP.

REASON: In the interests of highway safety and the control of environmental impacts, in accordance with Policies GEN1, GEN4, ENV10, ENV11 and ENV14 of the adopted Uttlesford Local Plan (2005) and the National Planning Policy Framework.

6. Prior to the commencement of development, a Biodiversity Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP: Biodiversity shall include but not be limited to the following:
  - a. Risk assessment of potentially damaging construction activities.
  - b. Identification of biodiversity protection zones.
  - c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (these may be provided as a set of method statements) to include a precautionary working method statement for Great Crested Newts.
  - d. Measures for the protection of any identified Priority Habitats within 50m of site.
  - e. The location and timing of sensitive works to avoid harm to biodiversity features.



- f. The times during construction when specialist ecologists need to be present on site to oversee works.
- g. Responsible persons and lines of communication.
- h. The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person.
- i. Use of protective fences, exclusion barriers and warning signs.
- j. Containment, control and removal of any invasive non-native species present on site.

Development shall be carried out in accordance with the approved details.

REASON: To conserve protected and Priority Species and allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and S40 of the Natural Environment and Rural Communities Act 2006 (Priority Habitats & Species), in accordance with Policy GEN7 of the adopted Uttlesford Local Plan (2005).

7. No development shall take place until a Reptile Mitigation Strategy has been submitted to and approved in writing by the local planning authority. The Reptile Mitigation Strategy shall include the following:
- a. Purpose and conservation objectives for the proposed works.
  - b. Review of site potential and constraints.
  - c. Detailed design(s) and/or working method(s) to achieve stated objectives.
  - d. Extent and location/area of proposed works on appropriate scale maps and plans.
  - e. Type and source of materials to be used where appropriate, e.g., native species of local provenance.
  - f. Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
  - g. Persons responsible for implementing the works.
  - h. Details for monitoring and remedial measures.
  - i. Details for disposal of any wastes arising from works.

The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

REASON: To allow the local planning authority to discharge its duties under the Wildlife & Countryside Act 1981 (as amended) and s40 of the Natural Environment and Rural Communities Act 2006 (Priority Habitats & Species) and in accordance with Policy GEN7 of the adopted Uttlesford Local Plan (2005) and the National Planning Policy Framework.

8. Prior to commencement of the development, the Developer shall submit to the local planning authority for approval, details relating to the improvement of restricted byway 25 (Takeley 48) from Burgattes Road to

Jacks Lane and north to the proposed footway/cycle link forming part of the residential estate shown hatched purple on drawing no.

WH202.WST.P1.ZZ.DR.PL.10.04 Rev B. The improvement works should make the restricted byway suitable for regular, all-weather use by pedestrians, cyclists, equestrians and people with mobility impairment. The scheme shall include, but not be limited to, full depth construction, surfacing, lighting, drainage, signage, ditch crossing, measures to prevent use by motor vehicles and vegetation clearance. Development shall be carried out in accordance with the agreed details, prior to the first occupation of any dwelling hereby approved.

REASON: to ensure safe and suitable access to key facilities for pedestrians and cyclists in accordance with Policy DM1 and DM9 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011, in accordance with Policy GEN1 of the adopted Uttlesford Local Plan (2005).

9. No works shall take place on site until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
- a. Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753. If a full infiltration scheme is not viable, then a hybrid approach may be suitable.
  - b. Provide sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
  - c. Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
  - d. Final modelling and calculations for all areas of the drainage system.
  - e. The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753. The subbase depth of the permeable paving should be minimum 300mm.
  - f. Detailed engineering drawings of each component of the drainage scheme.
  - g. A final drainage plan which details exceedance and conveyance routes, Finished Floor Levels and ground levels, and location and sizing of any drainage features.
  - h. An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.

The approved scheme shall be implemented prior to occupation.

REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development. To provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site. This is all in accordance with Policy GEN3 of the adopted Uttlesford Local Plan (2005).

10. No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and to prevent pollution has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

REASON: To ensure development does not increase flood risk elsewhere and does not contribute to water pollution in accordance with Policy GEN3 of the adopted Uttlesford Local Plan (2005).

11. Prior to commencement of development above ground, a schedule of the types and colours of the materials (including photographs) to be used in the external finishes of the dwellings hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in full accordance with the approved materials.

REASON: To preserve the character and appearance of the area and to ensure the development is visually attractive, in accordance with policies S7 and GEN2 of the adopted Uttlesford Local Plan (2005), the Essex Design Guide, and the National Planning Policy Framework.

12. A. No works shall take place until a risk assessment of the nature and extent of contamination has been submitted to and approved in writing by the local planning authority. This assessment must be based on findings of the Phase 1 Desk Study and Preliminary Risk Assessment by Stansted Environmental Services (Dated: 28 January 2021) and shall assess any contamination on the site, including ground gas, whether or not it originates on the site, and must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR11".
- B. If found to be necessary from the findings of the risk assessment, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to receptors shall be submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, and a timetable of works and site management procedures. The scheme must ensure that

the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

- C. The remediation scheme shall be implemented in accordance with the approved timetable of works prior to the commencement of development (other than that required to carry out the remediation) unless otherwise agreed by the local planning authority. Within 2 months of the completion of measures identified in the approved remediation scheme, a validation report to demonstrate the effectiveness of the remediation carried out must be submitted to the local planning authority for its written approval.
- D. If, during development, contamination not previously identified is found to be present at the site, it must be reported as soon as possible and within 3 days to the local planning authority and work halted on the part of the site affected by the unexpected contamination. No further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has carried out a full assessment of the extent of the contamination. Where remediation is necessary, a remediation scheme shall be provided detailing how this unsuspected contamination shall be dealt with. The details shall be submitted to and approved in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme, a validation report must be submitted to the local planning authority for its written approval.

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

13. No development shall commence until a scheme for protecting the dwellings from external noise has been submitted to and approved, in writing, by the local planning authority. The scheme shall be designed, specified and constructed so that the sound insulation performance of the structure and layout of the dwellings are such that the indoor ambient noise levels do not exceed the values detailed in Table 4 of BS 8233: 2014 - Guidance on Sound Insulation and Noise Reduction for Buildings and that the individual noise events do not exceed 45 dB LA,max,F more than 10 times a night. Where opening windows will lead to an internal noise level increase of 5 dBA or greater above BS 8233: 2014 recommended internal levels, the scheme shall include the provision of alternative mechanical ventilation with a minimum performance equivalent to a mechanical heat recovery (MVHR) system with cool air bypass as an alternative means of cooling and ventilation. Noise from the system should not result in BS8233:2014 internal levels being exceeded. Development shall be carried out in accordance with the approved scheme and completed before any

dwelling that the approved scheme relates to is occupied.

REASON: To ensure future occupiers enjoy a good acoustic environment, in accordance with Policy ENV10 of the Uttlesford Local Plan (2005) which requires appropriate noise mitigation and sound proofing to noise sensitive development. The application site is located in the vicinity of Stansted Airport and the A120 considered to be dominant noise sources that will impact on future occupiers of the development. The Noise Assessment submitted with the application contains measurements taken between **6 and 10 April 2021 when, as part of the Government's response to the Covid 19 Pandemic**, there was a ban on non-essential travel, and other shops and businesses were closed. It is considered that the noise levels recorded during this period would not represent what would be normally experienced at the site. A Noise Assessment is required to assess the current noise environment and ensure that a suitable noise mitigation scheme is incorporated into the design and construction of the new dwellings.

#### PRIOR TO OCCUPATION

14. Prior to occupation of the development, details of all hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved details prior to occupation of the dwellings hereby approved. The landscaping details to be submitted shall include:
- a. Proposed finished levels including details of the dwellings.
  - b. Means of enclosure.
  - c. car parking layouts.
  - d. Other vehicle, cycle and pedestrian accesses, routes and circulation areas.
  - e. Hard surfacing and other hard landscape features and materials.
  - f. Minor artefacts and structures (e.g., furniture, play equipment, refuse or other storage units, signs, lighting etc.).
  - g. Proposed and existing functional services above and below ground (e.g., drainage power, communications cables, pipelines etc. indicating lines, manholes, drainage systems, supports etc.).
  - h. Existing trees, hedges or other soft features to be retained.
  - i. New soft landscaping features and details of planting, including specifications of species, sizes, planting centres, numbers and percentage mix.
  - j. Details of siting and timing of all construction activities to avoid harm to all nature conservation feature.
  - k. Management and maintenance details.

All planting, seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be

replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the local planning authority.

REASON: To preserve the character and appearance of the area, to safeguard residential amenities and to ensure the development is visually attractive, in accordance with Policy GEN2 of the adopted Uttlesford Local Plan (2005) and the National Planning Policy Framework.

15. Prior to the occupation of any dwelling, a Surface Water Maintenance Plan setting out the maintenance arrangements for the different elements of the surface water drainage system, including who is to be responsible for the maintenance, and the maintenance activities/frequencies, shall be submitted to and agreed, in writing, by the local planning authority. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided. Development shall be carried out in accordance with the approved scheme.

REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk, in accordance with Policy GEN3 of the adopted Uttlesford Local Plan (2005).

16. Prior to occupation, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the local planning authority. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided. The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the local planning authority.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk and to ensure the SuDS are maintained for the lifetime of the development in accordance with Policy GEN3 of the adopted Uttlesford Local Plan (2005).

17. The applicant or any successor in title must maintain yearly Maintenance Logs of the maintenance of any element of the surface water drainage scheme for which they are responsible, which should be carried out in accordance with any approved Surface Water Maintenance Plan. Such Maintenance Logs must be available for inspection upon a request by the local planning authority.



REASON: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk, in accordance with Policy GEN3 of the adopted Uttlesford Local Plan (2005).

18. No dwelling shall be occupied until a Landscape and Ecological Management Plan (LEMP) has been submitted to, and be approved in writing by, the local planning authority. The LEMP shall include the following:
- a. Description, location and evaluation of features to be managed (including biodiversity compensation and enhancement measures).
  - b. Ecological trends and constraints on site that might influence management.
  - c. Aims and objectives of management.
  - d. Appropriate management options for achieving aims and objectives.
  - e. Prescriptions for management actions.
  - f. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
  - g. Details of the body or organisation responsible for implementation of the plan.
  - h. Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. Development shall be carried out in accordance with the approved details.

REASON: To allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the Natural Environment Rural Communities Act 2006 (Priority Habitats & Species) and in accordance with Policy GEN7 of the adopted Uttlesford Local Plan and the National Planning Policy Framework.

19. Prior to first occupation of the development, final details of the access from Smiths Green Lane as shown on drawing no. WH202.WST.P1.ZZ.DR.PL.10.51 Rev 02 shall be submitted to and approved in writing by the local planning authority, which shall include:
- a) the provision of a bell-mouth access with appropriate radii to accommodate the swept path of vehicles regularly using the site access.
  - b) clear to ground visibility splays with dimensions of 2.4 metres by 4.3 metres to both the north and south along Smiths Green Lane. Such vehicular visibility splays shall be retained free of any obstruction at all

times thereafter.

Development shall be carried in accordance with the approved details prior to the first occupation of any dwelling hereby approved.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in forward gear with adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011, in accordance with Policy GEN1 of the adopted Uttlesford Local Plan (2005).

20. Prior to occupation of the development, a shared use footway/cycleway link shown on drawing no. WH202.WST.P1.ZZ.DR.PL.10.04 Rev B shall be provided to a width of 3.5 metres through the site, between restricted byway 25 (Takeley 48) (improved as above) and Smiths Green Lane.

REASON: to ensure safe and suitable access to key facilities for pedestrians and cyclists in accordance with policy DM1 and DM9 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011, in accordance with Policy GEN1 of the adopted Uttlesford Local Plan (2005).

21. The development shall not be occupied until such time as the cycle parking provision as shown on drawing no. WH202.WST.P1.ZZ.DR.PL.10.09 Rev B has been provided and this provision shall be retained in this form at all times.

REASON: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011, in accordance with Policy GEN1 of the adopted Uttlesford Local Plan (2005).

22. The development shall not be occupied until such time as the vehicle parking areas as shown on drawing number WH202.WST.P1.ZZ.DR.PL.10.07 Rev B have been hard surfaced, sealed and marked out in parking bays. The vehicle parking areas and associated turning areas shall thereafter be retained in this form at all times.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011, in accordance with Policy GEN1 of the adopted Uttlesford Local Plan (2005).

## OTHER CONDITIONS

23. (a) No development other than that specified within the Written Scheme of Investigation for Archaeological Evaluation by RPS (January 2023) Version 3. The Written Scheme of Investigation shall be carried out until those works detailed in the Written Scheme of Investigation have been completed.
- (b) Following the completion of the works set out in the Written Scheme of Investigation, a mitigation strategy detailing the excavation/preservation strategy shall be submitted to and approved in writing by the local planning authority.
- (c) No development or preliminary groundworks can commence on those areas containing archaeological deposits until the completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.
- (d) Within 6 months of the date of completion of the archaeological fieldwork (or as otherwise agreed in writing by the local planning authority), a written post-excavation assessment shall be submitted to the local planning authority. This will comprise a post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

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

24. Prior to installation, details of any lighting relating to the residential dwellings and internal access road shall be submitted to and approved in writing by the local planning authority. The scheme shall identify any features on the site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. No other external lighting be installed without prior consent from the local planning authority.

REASON: To allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the Natural Environment and Rural Communities Act 2006 (Priority Habitats & Species) and in accordance with Policy GEN7 of the adopted Uttlesford Local Plan and the National Planning Policy Framework.

## Informatives

- i. In determining this application, the Planning Inspectorate, on behalf of the Secretary of State, has worked with the applicant in a positive and proactive manner. In determining this application no substantial problems arose which required the Planning Inspectorate, on behalf of the Secretary of State, to work with the applicant to seek any solutions.
- ii. The Planning Inspectorate, on behalf of the Secretary of State, has taken the environmental information provided into account during the determination of this application.
- iii. The decision of the appointed person (acting on behalf of the Secretary of State) on an application under section 62A of the **Town and Country Planning Act 1990 ("the Act") is final**: 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
- iv. 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>
- v. Responsibility for ensuring compliance with this Decision Notice rests with Uttlesford District Council, any applications related to the compliance with the conditions must be submitted to the Council.

## Annex 2 - Consultation Responses

Cadent Gas Limited.

Essex Police.

Gigaclear Limited.

Health and Safety Executive.

Hertfordshire and West Essex Integrated Care Board.

Manchester Airport Group – Highways.

Manchester Airport Group – Safeguarding.

National Air Traffic Service.

UK Power Networks.

Uttlesford District Council.

Uttlesford District Council - Environmental Health.

Essex County Council - Minerals & Waste.

Essex County Council – Highways.

Essex County Council - Infrastructure Planning Officer.

Essex County Council - Local Lead Flood Authority.

Essex County Council - Place Services Historic Environment.

Essex County Council - Historic Buildings & Conservation.

Natural England.

National Highways.

Affinity Water.

Thames Water.

Takeley Parish Council.

Richborough