



**TOWN AND COUNTRY PLANNING ACT 1990**

**SECTION 78 APPEAL**

**AGAINST THE DECISION OF UTTLESFORD DISTRICT COUNCIL TO  
REFUSE AN OUTLINE PLANNING APPLICATION FOR**

**THE ERECTION OF UP TO 233 RESIDENTIAL DWELLINGS INCLUDING  
AFFORDABLE HOUSING, WITH PUBLIC OPEN SPACE, LANDSCAPING,  
SUSTAINABLE DRAINAGE SYSTEM (SUDS) AND ASSOCIATED WORKS,  
WITH VEHICULAR ACCESS POINT FROM RADWINTER ROAD. ALL  
MATTERS RESERVED EXCEPT FOR MEANS OF ACCESS**

**ON BEHALF OF ROSCONN STRATEGIC LAND AND THOMAS ERIC  
BAKER AND SALLY ROSE HALL, THE EXECUTORS OF MR E C BAKER  
AND MRS J BAKER**

**DRAFT STATEMENT OF COMMON GROUND**

**ON LAND SOUTH OF (EAST OF GRIFFIN PLACE) RADWINTER ROAD,  
SEWARDS END, SAFFRON WALDEN, ESSEX**

**LPA REF: UTT/21/2509/OP**

**OUR REF: PJF/fa/PF/10680**

**APRIL 2022**

## 1.0 INTRODUCTION

1.1 This Statement of Common Ground establishes:

- i. Agreement as to the content of the planning application
- ii. Agreement as to relevant policy considerations
- iii. Agreement on matters which specifically relate to the planning application

1.2 For the particular assistance of the appointed Planning Inspector this Statement identifies matters of disagreement between the Appellants of the Local Planning Authority.

1.3 The Planning Application was refused by the Planning Committee on the 18th March 2022 for 5 reasons as set out in the Decision Notice attached as Appendix 1.

## 2.0 AGREEMENT AS TO THE CONTENT OF THE PLANNING APPLICATION

2.1 On the 3<sup>rd</sup> August 2021 an application seeking outline planning permission with all matters of detail reserved for subsequent approval, other than the means of access was submitted for:

*'Outline planning application for the erection of up to 233 residential dwellings including affordable housing, with public open space, landscaping, sustainable drainage system (SuDS) and associated works, with vehicular access point from Radwinter Road. All matters reserved except for means of access'.*

2.2 The Application was accompanied by an Environmental Impact Assessment with Appendices and a Non-Technical Summary.

2.3 The application was further accompanied by the following plans and reports

### Plans

- Topographical Survey – Drawing No. 20-103-01 September 2020
- Topographical Survey – Drawing No. 20-1-3-02 January 2021
- Tree Retention and Protection Plan – Drawing No. SWTRP-JUN21 June 2021
- Site Location Plan – Drawing No. DE\_436-002 Rev A
- Illustrative Masterplan – Drawing No. DE\_436-005
- Land Use Parameters Plan – Drawing No. DE\_436-020
- Building Heights Parameters Plan – Drawing No. DE\_436-021
- Access and Movement Parameters Plan – Drawing No. DE\_436-022

## Reports

- Biodiversity Checklist
- Tree Impacts and Tree Protection Method Statement for New Development 4<sup>th</sup> June 2021
- Noise Assessment July 2021
- Phase 1 Desk Study Report July 2021 Revision 01
- Phase 1 Desk Report Appendices Part 1 – 9
- Planning Statement Incorporating Statement of Community Engagement
- Minerals Resource Assessment July 2021
- Minerals Resource Assessment Appendix A
- Flood Risk and Drainage Strategy July 2021
- Archaeology and Heritage Statement July 2021
- Design and Access Statement Part 1 – 5 July 2021
- Utilities Appraisal July 2021
- Utilities Appraisal Appendix C Part 1 – 4
- Utilities Appraisal Appendix D
- Travel Plan July 2021
- Transport Assessment Parts 1 – 3 July 2021
- Air Quality Assessment July 2021
- Agricultural Land Quality Report February 2021
- Environmental Statement including Non-Technical Summary August 2021

2.4 The following additional plans and reports were submitting during the course of the application:

- Site Waste Management Plan September 2021 submitted 5<sup>th</sup> October 2021 (Supplemental)
- Drainage Statement (Ref. CTP-20-1142) September 2021 and Operations and Maintenance Manual – Drainage (Ref. CTP-20-1142) September 2021 submitted 5<sup>th</sup> October 2021 (Supplemental)
- Response to Comments from Consultees and Scoping Opinion October 2021 submitted 5<sup>th</sup> October 2021 (Supplemental)
- Site and Identified Heritage (Ref. BSA 2053/1) and Archaeology December 2020 submitted 5<sup>th</sup> October 2021 (Supplemental)
- Updated Noise Report (Ref. RA00693) Rev1 18<sup>th</sup> November 2021 submitted 26<sup>th</sup> November 2021 (Supersedes Noise Report Rev0 28<sup>th</sup> July 2021)
- Amended indicative housing mix submitted 26<sup>th</sup> November 2021 (Supersedes indicative housing mix stated in Planning Statement and Application Form)
- Air Quality Technical Note (Version 1) 1<sup>st</sup> December 2021 submitted 22<sup>nd</sup> December 2021 (Supplemental)
- Transport Assessment Updates (Ref. CTP-20-1142) December 2021 submitted 22<sup>nd</sup> December 2021 (Supersedes submitted Transport Assessment July 2021 where stated)
- Technical Note – Response to ECC Comments (Ref. CTP-20-1142) December 2021 submitted 22<sup>nd</sup> December 2021 (Supplemental)
- ECC Highways Comments Meeting Record 16<sup>th</sup> December 2021 submitted 22<sup>nd</sup> December 2021 (Supplemental)
- Environmental Statement Addendum and Non-Technical Summary January 2022 submitted 7<sup>th</sup> January 2022 (Supersedes Environmental Statement and Non-Technical Summary August 2021)

- Highways Technical Note: Outstanding Highways Matters January 2022 submitted 31<sup>st</sup> January 2022 (Supersedes submitted Transport Assessment July 2021 where stated)

2.5 The plans on which the determination of the appeal is to be made, comprise:

- Site Location Plan Drawing No. DE\_436-002 Rev A
- Land Use Plan Drawing No. DE\_436-020
- Building Heights Plan Drawing No. DE\_463-021
- Access and Movement Plan Drawing No. DE\_436-022
- Green Infrastructure Plan Drawing No. DE\_436-023
- Proposed Means of Access – CTP-20-1142 Drawing No. SK01 Rev D

2.6 It is agreed that the Land Use Plan; Building Heights Plan and the Access, Movement Plan and the Green Infrastructure Plan comprise the parameters for the proposed development.

2.7 All other plans have been submitted for illustrative purposes.

### **Environmental Statement**

2.8 An Environmental Statement accompanied the application. The Appellants submitted further environmental information (FEI) on the 7th January 2022. The FEI addresses the matters relating to:

- Air Quality
- Ecology
- Landscape and Visual

- Noise and Vibrations
- Socio-Economics and Health
- Climate Change
- Major Accidents and Disasters

### Consultation Responses

- **UK Power Networks dated 6<sup>th</sup> August 2021.**

No adverse impacts identified correspondence identifies the electrical lines and/or electrical plant.

- **ESP Utilities Group**

No adverse impacts identified guidance issued

- **HSE dated 6<sup>th</sup> August**

Do not advise against, consequently HSE does not advise on safety grounds against the granting of planning permission in this case.

- **Defence Infrastructure Organisation dated 13<sup>th</sup> August 2021**

No adverse impacts identified Guidance issued regarding potential redundant pipeline.

- **Essex County Council Archaeological Services**

No objections. Recommendations for planning conditions in letter of 17<sup>th</sup> January 2022.

– **Cadent dated 16<sup>th</sup> August 2021**

‘Holding objection’ issued in view of the site being in the vicinity of gas assets.

Subsequent letter dated 17<sup>th</sup> August 2021. No objections.

– **Police**

No objections. Reference made to Policy GEN2 Design (d).

– **Natural England dated 19<sup>th</sup> August 2021**

No objection

– **Affinity Water dated 20<sup>th</sup> August 2021**

No objections, guidance

– **MoHLG dated 1<sup>st</sup> September 2021**

No comment on the ES

– **Environment Agency dated 3<sup>rd</sup> September 2021**

No objection.

– **ECC Minerals and Waste Planning dated 3<sup>rd</sup> September**

No objections. Stated: reference made to Mineral Safe guarding Area Request for Minerals Supply Audit

– **Environmental Health dated 7<sup>th</sup> September 2021**

- Seek clarification on the potential impact on air quality with reference to the Link Road. Subsequently addressed and holding objection withdrawn on 14<sup>th</sup>



December 2021 subject to conditions to secure mitigation measures. Chelmsford City Council subsequently peer-reviewed the 14<sup>th</sup> December 2021 consultation response and confirmed no objection subject to conditions in correspondence dated 5<sup>th</sup> January 2022.

- No objections relating to potential noise effects – conditions recommended.
- Conditions recommended for mitigating construction noise and dust
- Conditions recommended relating to potential incidences of contamination.

Condition recommended regarding external lighting

– **ECC Development Flood Risk dated 8<sup>th</sup> September 2021**

Initially issued holding objection pending receipt of further information which was provided 5<sup>th</sup> October 2021. Holding objection subsequently removed by way of correspondence dated 21<sup>st</sup> October 2021. Holding objection reinstated following receipt of Further Environmental Information (FEI) dated 31<sup>st</sup> January 2022. Holding objection removed following clarification that FEI did not include or result in any changes to the scheme relevant to flood risk and drainage matters.

– **ECC Green Infrastructure Environment and Climate Action dated 8<sup>th</sup> September 2021**

No objection – conditions recommended

– **Saffron Walden Town Council**

Objection on matters relating to:

- Planning Statement
- Site Location outside the defined settlement boundary
- Loss of agricultural land

- Landscape
  - Access
  - Traffic and AQMA
  - Flooding
  - Safety – Fuel Store and pipework
  - Safety – Conflict with farm operation
  - Noise and Vibration
  - Ecology
  - Heritage
  - Scale of development
  - Further Infrastructure
  - Planning basis used
- **Anglian Water dated 12<sup>th</sup> October 2021**
- No objections – foul/surface water Guidance issued
- **ECC Development and Flood Risk Environment and Climate Action dated 21<sup>st</sup> October 2021**
- No objection to FRA
- **ECC Historic Buildings and Conservation Advice dated 4<sup>th</sup> November 2021**
- Unable to support planning application Heritage Impact Statement considered to provide insufficient assessment. Further correspondence dated 7<sup>th</sup> December 2021 concluded that the proposals do not result in harm to the significance of designated heritage assets. No objections raised.

- **UDC Urban Design Officer dated 22<sup>nd</sup> October 2021** raised the following key points:
- More collaboration could have been undertaken in formulating the scheme
  - Site layout based on passive principles not mentioned
  - Walking distances to town centre and other services/facilities beyond the recommended distances and site constraints prevent effective connections
  - Active travel connections not addressed fully
  - Central link road option supported but better justification could be put forward based on the Essex Design Guide
  - Greater use of opportunities for SUDs features within street typologies and micro-growing in open spaces should have been made
  - Ensure SUDs features are not steeply sided or fenced off
  - A more pedestrian-friendly crossing of Radwinter Road could be provided
  - Play facilities well-provided for but access to other facilities in the wider area is a concern
  - Indicative locations for LAPs should be shown on Parameter Plans. Proposals do not meet Fields in Trust guidance but acceptable that there are opportunities for play on trees within the well-provided open spaces proposed
  - Primary Street is too wide, artificially curved and does not provide the correct enclosure ratio
  - Street trees are welcomed but should also appear at a finer grain being proposed in more intimate squares and spaces
  - Raised tables/crossings to be shown in relevant locations

– **ECC Highways dated 24<sup>th</sup> November 2021**

- ECC Highways has objected to the proposed development for the following reasons: The location of the site in terms of its relative distance from services and facilities within the town.
- Permeability of the site for active travel as there are limited opportunities for cyclists and pedestrians to access existing residential development to the west
- The access has not been subjected to a safety audit and no visibility splays have been demonstrated for pedestrians crossing to the east of the proposed access
- The footway on the north side of Radwinter Road which links to the proposed bus stop and onto PROW 315/22 is not to the current 2m standard width and will not accommodate two pedestrians passing
- Historic traffic data used to provide flow diagrams has not been provided
- The background growth applied with TEMPRO does not appear to be correct
- The rationale behind internal trip assumptions require further explanation
- Scale drawings need to be provided for each of the junctions assessed and the base models should be calibrating using the queue length surveys which in turn are required to be appended to the TA
- The junction mitigation proposed has not been demonstrated to be deliverable

– **UDC Landscape Officer**

Commented that the proposed development would have a significant impact on the existing rural character of the site but that the visual impact on the wider landscape could be mitigated by an appropriate scheme of landscaping.

- **UDC Housing Enabling and Development Officer, ECC Planning and Development dated 15<sup>th</sup> December 2021**

Request for financial contributions relating to Early Years and Childcare Primary Education, Secondary Education and Libraries

- **Chelmsford DC (Peer Review of Air Quality)**

No objection raised conditions recommended

- **Saffron Walden and Steward End Parish Council dated 7<sup>th</sup> January 2021 [sic] 2022**

Concerns raised in response to additional documents issued by Applicants to UDC

- **NATS**

No safeguarding objection

- **UDC Climate Change Officer**

The application is likely to impact on climate and the environment against local and national reductions goals. The location will not encourage residents to walk into the town centre because of the distance and hilly nature of the route. Various mitigation measures are suggested and wider recommendations have been made regarding pedestrian and cycle improvements throughout Saffron Walden.

- **Essex County Council Ecology**

Holding objection due to insufficient ecological information on European Protected Species (bats).

### 3.0 RELEVANT POLICY CONSIDERATIONS

3.1 The following policies are considered relevant to the determination of the appeal

3.2 The development plan for the purposes of Section 38(6) of the Act comprises:

#### **Uttlesford Local Plan 2005 saved policies 2007**

The policies contained in the Local Plan are to be read in the context of Uttlesford Local Plan 2005 National Planning Policy Framework Compatibility Assessment July 2012.

The following policies are considered to be material subject to consideration of consistency with the Framework:

- Policy S7 – Countryside
- Policy H9 – Affordable Housing
- Policy H10 – Housing Mix
- Policy GEN 1 – Access
- Policy GEN 2 – Design
- Policy GEN 4 – Good Neighbour
- Policy GEN 6 – Infrastructure Provision to Support Development
- Policy GEN 7 – Nature Conservation
- Policy GEN 8 – Vehicle Parking Standards
- Policy ENV 4 – Ancient Monument and Sites of Archaeological importance
- Policy ENV 5 – Protection of Agricultural Land
- Policy ENV 7 – Nature Conservation

## Essex Minerals Local Plan 2014

The following policy raises a relevant planning consideration:

- Policy S8 Safeguarding mineral resources and mineral reserves

### Neighbourhood Plans (NP)

The Saffron Walden Neighbourhood Plan was submitted for examination in May 2021 but has not at the time of writing been formally made. The Neighbourhood Plan area does not include the appeal site, being located within the adjacent parish of Swards End where no Neighbourhood Plan Area has been designated.

3.3 The application site lies beyond the settlement boundary of Saffron Walden as identified on the Saffron Walden Inset Map.

### 3.4 Other Policy Considerations

#### National planning policy

- The Framework July 2021
- Planning Practice Guidance
- Ministerial Statements; Housing Strategies and statements concerning the need to provide for housing needs, including provision for affordable housing.

#### Local Planning Policy

UDC Interim Climate Change Planning policy

ECC Development Management Policies (February 2011):

- DM1 General Policy
- DM9 Accessibility and Transport Sustainability
- DM11 Public Rights of Way

### **Emerging Local Plan**

On the 30<sup>th</sup> April 2020, the Council withdrew the draft Uttlesford Local Plan 2019 and a new plan making process has commenced. No weight is to be given to the emerging Local Plan.

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#### 4.0 MATTERS AGREED

**It is agreed that:**

- 4.1 In accordance with the provisions of Article 35(1)(a) of the Town and Country Planning (Development Management) Procedure Order 2015, the reasoning for refusal set out on the Decision Notice dated 18<sup>th</sup> March 2022 represent 'clearly and precisely' the full reasons for refusal.
- 4.2 The Relevant policy considerations are as set out at Section 3.0 of the SoCG.
- 4.3 The strategic planning policy background to the preparation of the Uttlesford Local Plan for accommodating the need for new homes comprised Regional Planning Guidance for the South East 2001, and the Essex and Southend on Sea Replacement Structure Plan.
- 4.4 The Regional Plan was fully revoked on the 25<sup>th</sup> March 2013.
- 4.5 The policies in the Replacement Structure Plan for the provisions of land to meet development needs were not 'saved' beyond the 27<sup>th</sup> September 2007.
- 4.6 The plan period in the Local Plan for the provision of land for new homes covered the period 2001 – 2011.
- 4.7 The Council cannot demonstrate a deliverable 5-year supply of housing land.

- 4.8 The most up to date UDC published 5-year Land Supply Statement published on the 1<sup>st</sup> April 2021 indicates the District has 3.52 years of housing supply for the period of 2021 – 2026.
- 4.9 The policies in the development plan which are most important for determining the application are out of date. This includes all policies related to the provision of land to meet housing need.
- 4.10 There are no policies in the NPPF that protect areas or assets of particular importance which provide a clear reason for refusing the application.
- 4.11 The decision-taking of this application is the ‘tilted planning balance’ in favour of a grant of planning permission as expressed at Framework paragraph 11(d)(ii).
- 4.12 The provision of market dwellings in the proposals is to be given **substantial weight** in the planning balance.
- 4.13 The provision of affordable housing in the proposals is to be given **substantial weight** in the planning balance.
- 4.14 The provision of jobs during construction and during the occupation of the new homes is to be given **moderate weight** in the planning balance.
- 4.15 It has been demonstrated that development will deliver a net biodiversity gain.
- 4.16 The provision of a net gain in biodiversity is to be given **moderate weight** in the planning balance.

- 4.17 In so far as the development involves the construction of new homes on greenfield land, there is inevitably an impact on the landscape of the site itself. It is accepted that the development will not give rise to significant adverse impacts to landscape character or visual amenity from beyond the site boundary.
- 4.18 The development will not cause harm to the significance of any designated heritage assets.
- 4.19 The development will, with mitigation to be secured by reasonable planning conditions on a grant of planning permission, not have an adverse impact upon air quality.
- 4.20 The development will not constrain potential future use of mineral working.
- 4.21 The development as shown on the illustrative master plan and described in the Design and Access Statement demonstrates how the proposal will make an effective use of land for housing and will achieve a 'well-designed place'. The development will satisfy national planning policy set out in the Framework 130.
- 4.22 The ECC Development Management Policies have not been 'adopted' in the sense of comprising any part of the statutory development plan.
- 4.23 The ECC Development Management Policies comprise guidance only, and were issued prior to the publication of the Framework in March 2012.
- 4.24 The preparation of the Development Management Policies by ECC was not subject to prior publication consultation

4.25 If the Appellants satisfactorily demonstrate the development is not objectionable for the reasoning set out in RfR1 and RfR2c then it will have been satisfactorily demonstrated the matters raised in RfR4 have been met.

4.26 The LPA will not raise any issue relating to transport matters that may be agreed between the Appellants and ECC as the Local Highway Authority.

4.27 The LPA will withdraw reasons for refusal relating to transport matters in the event the LHA and the Appellants reach agreement on matters raised in the reasons for refusal.

4.28 The completion of Planning Obligations by way of an agreement between the Appellants and the relevant authorities will fully address RfR5.

4.29 It is agreed that the LPA is willing to be proactive with the Appellants in the entering of planning obligations that satisfy Regulation 122 of the CIL Regulations 2010 (as amended).

## 5.0 MATTERS NOT AGREED

- 5.1 Whether the proposals satisfactorily responds to national planning policy promoting sustainable transport (Framework, paragraph 110).
- 5.2 Whether the 'residual cumulative impacts on the road network would be severe' (Framework 111).
- 5.3 Whether sufficient ecological information on European Protected Species (namely bats) has been provided with the application in order to form a planning judgement as to the impact of the development upon bats.
- 5.4 Whether the development complies with relevant policies of the development plan as identified in RfR1, RfR2, RfR3 and RfR4 (on the assumption that the parties will enter planning obligations pursuant to S.106 of the Act by way of an agreement between the Appellants and the relevant local authorities).

## 6.0 PLANNING OBLIGATIONS

6.1 The Appellants will, subject to being satisfied that all planning obligations are lawfully sought, enter planning obligations in relation to:

1. The provision of affordable housing
2. Early Years and Childcare
3. Primary Education
4. Secondary Education
5. Libraries
6. Public open space provision and maintenance
7. Bus stops
8. Travel Plan
9. Enhanced bus service provision

**7.0 PLANNING CONDITIONS**

7.1 The Appellants will endeavour to agree with the LPA reasonable planning conditions that satisfy the tests of validity for the imposition of planning conditions. Where there is dispute between the parties, the list of conditions will explain the reasoning therefore.

Signed: .....

(On behalf of The Appellants)

Name: ..... Date:.....

Signed: .....

(On behalf of Uttlesford District Council)

Name: ..... Date:.....