



TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEAL BY

**AGAINST THE DECISION OF UTTLESFORD DISTRICT
COUNCIL TO REFUSE PLANNING PERMISSION FOR**

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

**AT LAND SOUTH OF (EAST OF GRIFFIN PLACE) RADWINTER ROAD,
SEWARDS END , SAFFRON WALDEN, ESSEX, CB10 2NP**

**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**

PINS REF: APP/C1570/W/22/3296426

LPA REF: UTT/21/2509/OP

APPELLANTS' REF: PF/10680

PROOF OF EVIDENCE OF P J FRAMPTON BSC (HONS), TP, MRICS, MRTPI

AUGUST 2022

LIST OF APPENDICES

- APPENDIX 1** Statement on Wheatcroft Amendment Consultation
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1.0 INTRODUCTION

Peter J Frampton BSC (HONS), TP, MRICS, MRTPI will say:

1.1 I hold a Bachelor of Science Honours Degree in Town Planning. I am a member of the Royal Town Planning Institute and the Royal Institution of Chartered Surveyors. I am a Director in the firm of town planning consultants and chartered surveyors that bears my name, Frampton Town Planning Ltd, trading as 'Framptons'.

1.2 Framptons has offices at Oriel House, 42 North Bar, Banbury and Aylesford House, Royal Leamington Spa. I have practised in planning consultancy for over forty years. Prior to entering private practice in 1982 I held the position of a Senior Development Control Officer at Lichfield District Council.

1.3 Oral evidence is to be called from the following witnesses:

- Mr Chris Elliott, Rappor, on Highways and Transportation matters (**CD D4**)
- Mr James Stacey, Tetlow King, on Affordable Housing matters (**CD D7**)

1.4 Since the appeal was submitted against the Council's refusal to grant planning permission, substantial progress has been made with the LPA in addressing their objections. The LPA (by letter to PINS dated 25th July 2022 (**CD B46**)) has now **withdrawn**:

- **RfR 1:** Transport
- **RfR 2:** Transport

- **RfR 3:** Biodiversity (withdrawn as a reason for refusal via letter, dated 26th May 2022
(**CD B44**))
- **RfR 4:** Transport

1.5 The withdrawal of the reasons for refusal relating to transportation measures is consequent upon the agreement reached with ECC Highways. A Supplementary Statement of Common Ground on Transport Matters (**CD B40**), dated 25th July 2022, has been entered into. The proactive discussions held with the Local Highway Authority have also resulted in agreement on Planning Obligations and reasonable planning conditions. The planning conditions refer to two drawings which did not form part of the original planning application. A request is being made to the Inspector to give due consideration to these drawings in the decision-taking. I have set out in **Appendix 1 (CD D24)** the actions that have been undertaken to consult widely on these drawings.

1.6 The Council has further acknowledged that **RfR 5:** Planning Obligations would be withdrawn upon the completion of Planning Obligations. The Planning Obligations have been discussed with the LPA. The Heads of Terms are set out at **Appendix 2 (CD B43)**. There is no dispute between the LPA and the Appellants on the provisions for Obligations.

1.7 In consequence of the position now reached with the LPA, my Proof of Evidence briefly sets out the planning policy background to the proposals. Thereafter, I focus my considerations on the range of matters raised by the Rule 6 Party.

1.8 At the time of writing this Proof of Evidence, the position of the Rule 6 Party is not clear on matters relating to air quality, heritage, landscape and visual impacts. In consequence, the Appellants may consider it is necessary to call oral evidence to address matters set out in the Proofs of Evidence from the R6 Party, and to address the content of Written Statements. I have

prepared a Scott Schedule which was presented to the Rule 6 Party on 20th July 2022. The Rule 6 Party responded with its comments on 2nd August 2022. The Rule 6 Party refers to Landscape, Heritage and Air Quality ‘witnesses evidence’. Concern has been raised regarding the lateness of the notification regarding this ‘witness evidence’ at the Inquiry (email to PINS, dated 4th August 2022 – attached as **Appendix 3**). The Appellants have hence prepared evidence in the form of Proofs of Evidence from:

- Mr S Grubb, AAC, on Air Quality matters (**CD D10**)
- Mr B Stephenson, BSA, on Heritage matters (**CD D13**)
- Mr A Williams, Define, on Urban Design/Landscape matters (**CD D16**)

I have had due regard to the conclusions reached by these witnesses in addressing the relevant planning policy considerations, and in forming the planning balance.

1.9 I have appended to my Proof of Evidence Written Statements prepared by experts, which respond to other matters raised by the Rule 6 Party. These statements include matters relating to:

- Sustainability and Climate Change (**Appendix 4**) (**CD D20**)
- Noise (**Appendix 5**) (**CD D22**)
- Drainage (**Appendix 6**) (**CD D23**)
- Biodiversity (**Appendix 7**) (**CD D21**)

1.10 A material planning consideration for this proposal is the provision of custom build housing. A 5% provision is to be secured through the provisions of the Planning Obligations. A Written Statement has been prepared by Andy Moger of Tetlow King, which provides evidence on the

need for self-build and custom housebuilding in Uttlesford District. I place my planning judgement as to the weight that should be given to the delivery of self-build housing on this evidence. Mr Moger's Written Statement is attached to this Proof of Evidence as **Appendix 8 (CD D19)**.

1.11 In preparing my Evidence, I understand my professional duty to the Inquiry. I declare that:

- a) to the best of my knowledge, information and belief, this Proof of Evidence complies with the requirement of the giving of expert evidence and, as a witness, I understand my duty to the Inspector and have complied with this duty;
- b) I believe the facts I have stated in this Proof of Evidence are true and the opinions I have expressed are correct;
- c) the Proof of Evidence includes all the facts which I regard as being relevant to the opinion which I have expressed and I have drawn to the attention of the Inspector any matter which would affect the validity of that opinion; and
- d) the provision of the Proof of Evidence complies with the Code of Professional Conduct of the Royal Town Planning Institute, as set down in the Ethics and Professional Standards Advice for RTPI Members (2016).

Signed:


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Dated:

08/08/2022

2.0 RELEVANT PLANNING POLICY

The Development Plan

- 2.1. The development plan comprises the Uttlesford Local Plan 2005. A 'Saving Direction' was issued in 2007. The Plan provided for development needs upto 2011. The Statement of Common Ground with UDC (**CD B38**) identifies relevant planning policies. The policy context for the provision of land to meet development needs up to 2011 was provided by the Essex Structure Plan and the Regional Spatial Strategy for the East of England. The revocation of these parts of the then development plan and the end of the plan period is, for all intents and purposes, a decade ago.

Supplementary Guidance

- 2.2. The Highway Authority's Development Management Policies do not comprise part of the development plan, and comprise material considerations.
- 2.3. A material consideration to which significant weight should be given, is the Framework. The Local Plan and the SPD were both published prior to the Framework.

3.0 RELEVANT PLANNING CONSIDERATIONS

3.1. It is an accepted position with the LPA that a 5 Year Housing Land Supply cannot be demonstrated, and, hence, the provisions of the Framework Paragraph 11(d) are engaged. I accept the absence of a 5-year supply of housing land is not a ‘magic wand’ that necessarily conjures a grant of planning permission. I consider whether the application of the Framework that protect areas or assets of particular importance provide a clear reason for refusal (Framework, Paragraph 11(d)(i) if the circumstances provided in Paragraph 11(d)(i) are not applicable, paragraph 11(d)(ii) makes clear that the planning balance is tilted towards the granting of planning permission. Such a tilt is only outweighed when the adverse impacts from the granting of planning permission would significantly and demonstrably (provenly) outweigh the benefits.

3.2. The agreed position between the Appellants and the LPA is that the supply position is 3.52 years. I consider this is a serious shortfall when considered against the Government’s long established policy commitment to boost housing land supply. Furthermore, the shortfall is placed against a minimum housing land supply requirement.

3.3. The fundamental planning point is that the LPA has failed to enable sufficient houses to be built through the land use planning process. This failure has serious social consequences for the community seeking to purchase their own homes, and especially for persons who are unable to access the property market, and accordingly seek affordable housing. For these people, there is a social misery on a daily basis as a consequence of being unable to access homes to meet daily needs. Such misery arises through the inability to ‘put roots down’; to become part of a community; to have a settled position in terms of educating children – and generally secure relief from anxiety. I anticipate that most, if not all, of the participants in this Inquiry will not

have experienced the relenting grief and stress in being unable to access housing to meet our domestic needs.

3.4. I consider that, set against the serious shortfall in the supply of housing, in the planning balance:

- i) **Substantial weight** should be placed upon the provision of open market housing.
- ii) **Substantial weight** should be placed upon the provision of affordable housing.

3.5. Indeed, Mr Stacey concludes (paragraphs 13.16 – 13.17) from his assessment of the need for, and delivery of, affordable housing that:

‘Market signals indicate a worsening trend in affordability across Uttlesford and by any measure of affordability, this is an authority in the midst of an affordable housing emergency, and one through which urgent action must be taken to deliver more affordable homes. I have no doubt that every one of the affordable homes will be allocated to a household in need.

In this context, the proposed 40% affordable housing, totalling up to 93 homes, will make a significant and tangible impact on the lives of those real households in need who will occupy each affordable home. The scheme will enable up to 93 more households to access good, affordable accommodation.’

3.6. Mr Stacey considers **substantial weight** should be attributed to the provision of affordable housing in this development.

3.7. Self-build and custom house building helps to diversify the housing market and increase consumer choice. Mr Moger states (paragraph 4.5):

‘The evidence shows that there is a substantial unmet demand for Self-Build and Custom Housebuilding plots within Uttlesford. If the Council were to address the shortfall arising from Base Periods 1, 2 and 3 and address Base Period 4 demand by 30 October 2022 to meet the statutory duty, then this would require a minimum of 198 plots to be permissioned within the next three months.’

3.8. Mr Moger contends that there is a *‘demonstrable statutory duty failure across the first three Base Periods (and a pending failure for the fourth) to deliver self-build and custom build housing to meet the level of demand’*. Mr Moger considers that ‘nothing less’ than substantial weight should be attributed to the provision of custom-build housing in this development.

3.9. I consider that, in the planning balance:

- iii) **substantial weight** should be placed upon the provision of self-build/custom build housing.

3.10. In view of its age, the development plan does not consider biodiversity loss and biodiversity net gain. The proposals have responded to the policies in the Framework for conserving and enhancing the natural environment (Section 15). An assessment has been made of the opportunity presented by the Parameter Plans to achieve a significant Biodiversity Net Gain (BNG). Included within **Appendix 7** is an assessment made against the Defra Metric 3.1. The assessment reveals the potential to achieve a BNG of circa 13%. The precise amount of BNG will be determined through the detailed design stages.

3.11. A planning condition has been agreed with the LPA (Condition 18) requiring the development to achieve a BNG of 'at least 10%'. I consider that, in the planning balance:

- iv) **moderate weight** may be given to the merits of the scheme for enhancement to biodiversity.

3.12. I anticipate this development will take some 4 – 5 years to build out following commencement on site. The construction process will provide a significant source of employment. The Housing Strategy *Laying the Foundations* (November 2011) (CD 18) estimated that, for every new home built, up to two new jobs are created for a year (Paragraph 11). When homes are occupied, jobs are created through both direct employment (provision of trades) and indirect employment (purchase of goods and services).

3.13. I consider that, in the planning balance:

- v) **moderate weight** should be given to the economic benefit from this development.

3.14. The Planning Obligations which accompany the proposals include provisions that would have wider public benefits than just to the future occupiers of the proposed new homes, namely:

- i) the provision for the bus services contribution;
- ii) the car club contribution; and
- iii) the provision for an extensive area of public open space – which is more extensive than the open space policy requirements for the scheme.

3.15. Figure 14 in the Design & Access Statement reveals that the open space policy requirement for the scale of development would be 4.41ha. The Parameters Plan makes provision for 10.09ha. I consider the 'High Land Park', providing '*expansive views towards Saffron Walden and the rural surrounds*' (which '*would celebrate the view to the spire of the iconic Grade I St Mary's Church in the centre of Saffron Walden*'), would especially become a wider community benefit.

3.16. I conclude that these wider benefits arising from the provisions of the Planning Obligations should be given **moderate weight** in favour of the proposals.

3.17. I conclude that significant benefits in the overall public interest will be secured from the granting of planning permission. I ascribe the weight to these benefits as follows:

	Public Benefit	Weight
		Appellants
i)	Provision of Open Market Housing	Substantial
ii)	Provision of Affordable Housing	Substantial
iii)	Provision of Custom Build Housing	Substantial
iv)	At least 10% Biodiversity Net Gain	Moderate
v)	Employment Opportunities (during construction and as a consequence of new homes being occupied)	Moderate
vi)	Wider Benefits arising from provisions of the Planning Obligations	Moderate

3.18. I now consider the substance of matters on the other side of the planning balance, I have had particular regard to the Rule 6 Party’s Statement of Case. I firstly consider the extent to which this proposal may be considered to be in conflict with the Local Plan 2005. This coincides with Topic A ‘Departure’ on the Scott Schedule with the Rule 6 Party.

Conflict with the Local Plan 2005

Policy S1: Development Limits for the Main Urban Area

3.19. The Proposals Map defines the main urban areas and the proposed urban extensions. It is accepted with the LPA that there is a deficiency in the supply of housing land. The shortfall in a deliverable housing land supply is considered serious. In consequence, new sources of housing land have to be identified. I consider the conflict with the provision of Policy S1 should be accorded **very limited weight** against the development.

Policy S7: Countryside

3.20. The weight to be given to the provisions of Policy S7 should take account of the following:

- i) The Local Plan is both ‘long in the tooth’ (plan period upto 2011) and predicated on providing for development needs pursuant to strategic policies which no longer form part of the development plan and are irrelevant (Essex and Southend Strategic Plan; Regional Spatial Strategy for East of England).
- ii) Policy S7, in seeking the protection of the countryside for its own sake, is inconsistent with the Framework. (I refer to this consideration further when addressing Topic C from the Scott Schedule prepared with the Rule 6 Party (**CD B45**)).
- iii) In order to ensure a minimum 5 year supply of housing land, there is, realistically, an inevitable requirement to build on greenfield land and to breach existing settlement boundaries in view of the lack of available brownfield land within the District.

3.21. I conclude that the conflict with Policy S7 – in circumstances of providing for housing needs on land adjoining Saffron Walden, as one of the three ‘main urban areas’ of the District (Great Dunmow; Saffron Walden; Stansted Mountfitchet) – should be accorded **very limited weight** against the development.

Policy ENV5: Protection of Agricultural Land

3.22. It is acknowledged that the proposed development would be located on BMV agricultural land (3.8ha Grade 2 and 13.1ha Grade 3a). As such, there would be an in-principle conflict with Policy ENV5. Policy ENV5 requires applicants to undertake a sequential approach, considering poorer quality agricultural land or previously developed land or land within settlement limits before building on BMV agricultural land. This policy provision is not consistent with the Framework as the sequential test is applicable to the plan-making process (Framework Paragraph 175). My judgement is consistent with Planning Inspector David Wildsmith in his consideration of a major housing development on land east of Elsenham (Decision Letter paragraph 166 (**CD J12**)).

3.23. In the development management process, Paragraph 174b of the Framework does require the economic and other benefits of BMV agricultural land to be recognised. I address the loss of agricultural land under Topic B 'Agricultural Land' on the Scott Schedule.

3.24. I conclude that **very limited weight** should be given to the conflict with Policy ENV5.

Policy GEN1: Access

3.25. This policy sets out a range of criteria to be satisfied by new development proposals. I consider that this proposal – in outline form – satisfies these criteria.

Policy GEN2: Design

3.26. I have considered whether there are any components of this proposal which might result in conflict with this general design policy. This Policy is generally consistent with the Framework. In the context of an application for outline planning permission with the provision of parameter plans, I consider that the proposal can satisfy all the criteria for good design. Measures to minimise water and energy consumption will be principally achieved through the Building Regulations. Measures are proposed to secure the provision of renewable sources of energy. The LPA has not identified any issue relating to 'good design' which could not be satisfied by this scheme at the Reserved Matters stage.

3.27. Policy GEN2 criterion e) requires that development '*helps to minimise water and energy consumption*'. Criterion f) requires development to have regard to guidance on layout and design adopted as supplementary planning guidance to the development plan. The Planning SoCG (**CD B38**) refers to two SPDs and the Interim Climate Change Planning Policy. None of these documents form part of the statutory development plan.

3.28. The Appellants have commissioned a Sustainability Report prepared by Turley (prior to the withdrawal of the transport reasons for refusal. The Sustainability Report (attached as **Appendix 4 (CD D20)**) considers:

- a sustainable location for development;
- sustainable and active transport measures; and
- sustainability and climate change design.

3.29. Section 7 provides the conclusions. I consider that the proposals are consistent with GEN2, and the provisions of the non-statutory SPDs and the Interim Climate Change Planning Policy. The proposal represents 'good design'.

The Environmental Issues raised by the Rule 6 Party

3.30. The Rule 6 Party has raised environmental considerations against the development, which the LPA considers are satisfied by the proposals. Public opposition to any development, whether ventilated through a Parish Council or Town Council, is not a reason for refusal, unless such objections are substantiated on valid land use planning grounds. It is, of course, acknowledged that some people, perhaps many people, oppose the development on greenfield land and like it 'as it is'. Such representations rarely advance a balanced judgement, and simply represent a one-sided argument against new development notwithstanding the provision to meet the development needs of the wider public interest. The Scott Schedule with the Rule 6 Party identifies 14 'topic areas'. I consider these in order.

Topic A: Sustainability

3.31. The Scott Schedule identifies four matters of disagreement within this topic area. I address the matters which have not been raised by the LPA in the now withdrawn reasons for refusal.

A3 – Scale

3.32. This proposal has been prepared in spatial terms to form a sustainable urban extension to Saffron Walden as a principal settlement in Uttlesford District. The development will neither function nor be perceived as an ‘urban extension of Swards End’. While urban development will extend eastwards beyond the existing built development on Radwinter Road, a clear and distinct gap will remain between leaving the enlarged urban area of Saffron Walden and entering Swards End. In short form, the proposal will not coalesce Saffron Walden and Swards End. The separate identity and spatial setting of these two settlements will be preserved.

A4 – Sequentially Preferable Sites Available

3.33. The fact that the LPA can only demonstrate a 3.52 year housing land supply demonstrates the inadequacy in the supply of housing from within existing urban areas and committed housing sites. New sources of housing land have to be identified – which, inevitably, requires the release of greenfield land. The suggestion that sufficient land can be found within existing settlement boundaries to meet housing needs is, with respect, no more than wishful thinking.

3.34. The fact that there is a serious shortfall in the delivery of housing land demonstrates that committed housing sites, and other development opportunities within the urban areas, are not yielding sufficient new homes to meet the needs of the District. The provision of additional land to meeting housing sites is best served by the enlargement of Saffron Walden as one of the main urban areas of the District – by reasoning of the proximity to, and range of, services and facilities that are available.

A5 – Connection to Adjoining Housing

3.35. The Appellants have agreed with the LHA and the LPA to provide a footpath/cycle path to the western boundary of the site so as to provide a potential connection into the committed housing development. A planning condition (Condition 25) is proposed to secure the future delivery of this footpath/cycle path. The Appellants are actively seeking a land interest to enable the footpath/cycle path to be extended to the site boundary of the committed housing development which involves third party land. This provision could be secured by UDC or the LHA using powers of compulsory acquisition.

A6 – Lack of connectivity across the site

3.36. The Parameters Plan is just that, a plan of the parameters which will form the basis of detailed design to be submitted to the LPA for approval. (Reserved Matters). As such a parameters plan does not identify the precise internal road layout. The LHA is satisfied the scale of development can be served from a single point of access.

A8 – Efficient use of Land

3.37. The Framework (paragraph 119) states:

*‘Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, **while safeguarding and improving** the environment and ensuring safe and healthy living conditions. (Emphasis added).*

3.38. Invariably and in response to a wide range of development requirements, land on development sites is safeguarded to protect the environment e.g., for storm water attenuation, and in the interests of good planning for the future. In my opinion there is no substance in this comment that overall, this proposal should be criticised on the alleged basis of being an inefficient use of land for housing.

Topic B: Agricultural Land

B1 – Loss of High Grade Agricultural Land

3.39. It is acknowledged that the development would involve the loss of 16.8 hectares of BMV agricultural land (Agricultural Quality Report Land Research Associates 24/02/2021 **(CD A12)**).

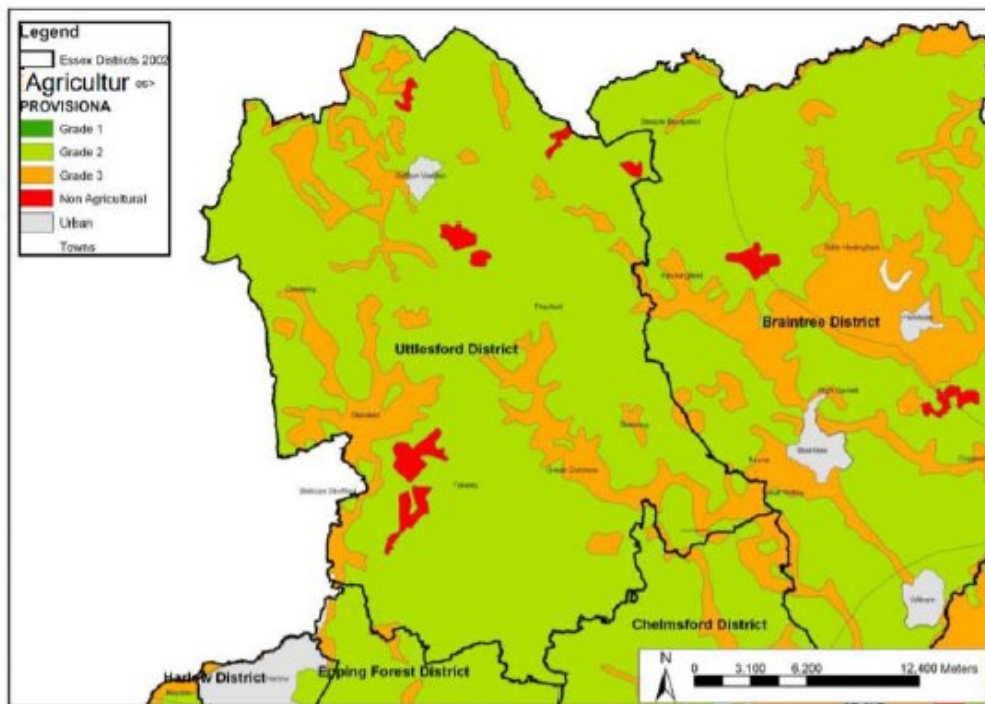
Paragraph 6.29 of the ES **(CD A26)** states:

*‘The potential loss of 3.8ha of Grade 2 land is regarded as a negligible magnitude change to a high sensitivity resource. The potential loss of 13.1ha of subgrade 3a land is regarded as a minor magnitude adverse change to a moderate sensitivity resources. Overall, the potential loss of agricultural land is regarded as a **minor adverse effect**.’*

3.40. In August 2021 a Scoping Report for the Sustainability (SA) of the emerging Uttlesford Local Plan was published **(CD H12)**. Paragraph 9.5 and Figure 9.1 are displayed below:

9.5 In terms of BMV land, as shown in **Figure 9.1**, there is no Grade 1 Agricultural Land in the district. Most of the district falls within Grade 2 Agricultural Land (80.4%, 51,568 ha), with 17.1% (10,953 ha) being Grade 3. It is however uncertain if this is Grade 3a (which is BMV) or Grade 3b (which is not).

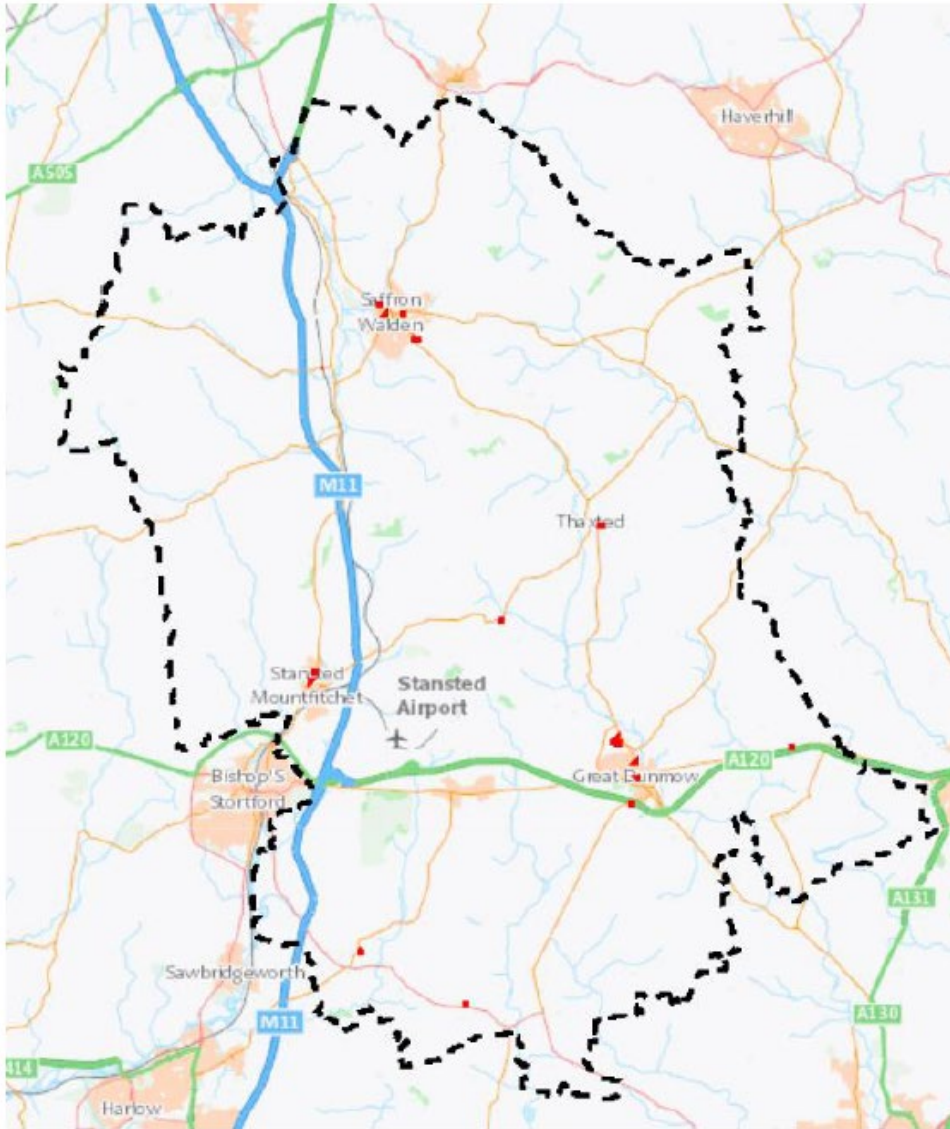
Figure 9.1: Agricultural Land Classification in Uttlesford District (2010)



3.41. The loss of BMV agricultural land to accommodate the need for new homes in the District has to be set into the context of:

- i) the rural nature of the District and the abundance of agricultural land (paragraph 9.7); and
- ii) the limited supply of previously developed land (PDL) which is considered suitable for housing – as shown on Figure 9.2 (below).

Figure 9.2: Brownfield register sites⁷⁰



B2 – Reduced Viability of Remaining Land

3.42. In respect of the impact upon the existing farm unit from the loss of agricultural land, the ES states (6.23):

‘The land within the Application Site is tenanted out as part of a wider c.160ha holding. The tenant owns approximately 40ha outside of the Application Site and tenants a further 120ha. The tenant uses a contractor to farm the land, most of which is in arable rotation

with the exception of one field which is grass. there is one year remaining on the tenant's lease of land within the Application Site.'

Topic C: Landscape Impact

C1 – Development extends above the valley

C2 – Loss of Openness, agricultural landscape character

3.43. Policy S7: Countryside defines the countryside as being '*all those parts of the Plan area beyond the Green Belt that are not within the settlement or other site boundaries*'. The policy seeks to protect the countryside for its own sake. This planning judgement is not consistent with the Framework. The Framework recognises the '*intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland*' (Framework 174b).

3.44. Development of a greenfield site for built development will inevitably have a substantial landscape and visual impact on the site itself. The loss of greenfield has to be accepted if the development needs of the District to provide more housing are to be met. I response further to these comments under matters C4 – C7.

C3 – Loss of Separation Between Settlements

3.45. I have addressed this consideration at paragraph 3.34 under Topic A3.

C4 – Damage to identified sensitive key characteristics and landscape elements of the Cam

Valley character area

C5 – Valued Landscape

C6 – Visual Impact

C7 – Insufficient Screening of Development

3.46. The impact of the proposal on landscape and visual amenity has been addressed in Chapter 10 of the ES (**CD A26**). The landscape is considered not to have ‘*demonstrable physical attributes*’ to be regarded as being a ‘*valued landscape*’ as may be understood by the application of paragraph 174(b) of the Framework. Neither the Statement of Case submitted by the Rule 6 Party (**CD B26**) or the consultation response to UDC dated 7th January 2022 (erroneously dated 2021) (**CD A77**) refers to the land being a ‘*valued landscape*’. Of course, all landscape may be valued to some extent, especially to those who live nearby and seek no change.

3.47. Paragraph 10.116 of the ES states:

*‘... the assessment of residual effects concludes that the Proposed Development will result in a **Minor Neutral effect (Not Significant)** on landscape features and overall landscape pattern of the Site.’*

3.48. The Council's Landscape Officer concluded in his consultation response dated 30th November 2021 (**CD A111**):

'The proposed development would clearly have a significant impact of [on] the existing rural character [of] the site, however, the visual impact on the wider landscape could be mitigated by an appropriate scheme of landscaping. There is an opportunity for seeking the provision of significate [significant] woodland on the elevated south eastern part of the site as part of any detailed landscaping scheme.'

3.49. The Appellants' landscape consultant may, when the Rule 6 Party has provided its Evidence, prepare a Rebuttal Evidence – particularly in the context of the Scott Schedule from the Rule 6 Party being received on 2nd August, and referencing to the submission of 'landscape witness evidence'.

3.50. With respect, the reference by the Rule 6 Party, to an appeal decision at Poplar Hill in the District of Mid-Suffolk is of no assistance to the Inspector in the determination of this appeal. Neither the Statement of Case nor the Rule 6 Party's comments on the Scott Schedule explain the alleged harm to the surrounding landscape character.

Topic D: Heritage

3.51. An Archaeology and Heritage Statement has been prepared, initially as a Written statement to be appended to my Proof of Evidence (Heritage was not scoped into the Environmental Assessment). The Rule 6 Party has referred in the Scott Schedule (D1; D2), received on 2nd August 2022, to '*heritage witness evidence*'. No such reference was made in the Case Management Call and the Summary Notes issued thereafter (**CD C2 – C4**). In consequence, the

Written Assessment has been attached to a Proof of Evidence from Mr Stephenson (CD D13).

The Rule 6 Party's comments in the Scott Schedule (Topic D) do not explain the alleged harm to the significance of designated heritage assets.

3.52. The Written Statement concludes (paragraphs 5.6 – 5.7):

'The site does not contain any designated heritage assets and none lie nearby. The closest assets are Grade II listed buildings and include older houses in Swards End and the former workhouse to the west. The site visit confirmed that none, including the closest, Pounce Hall, would be affected by proposed change within the site. The site already has good screening on its boundaries and designated heritage assets are also screened by topography, vegetation and later structures. The proposals will retain and enhance all of the vegetation on the site boundaries.

Even though the town's 19th century church spire and upper tower can be seen from within the site, this does not mean there would be heritage harm to the church. As set out in the latest Historic England Guidance, proposed development would not 'compete' with the church and is not part of a designed or associated view (HE 2017). Indeed, the proposed change would not be perceptible from the asset itself. A retained view through to the older parts of the town from the site's highest, south eastern part is not required as heritage mitigation, but has other benefits.'

3.53. In his Written Assessment, Mr Stephenson has not identified any harm to the significance of a designated heritage asset from the proposed development within the application site. Mr Stephenson has referred (paragraph 5.8) to the consultation responses (2) from the Council's specialist heritage adviser, who reaches the same conclusion.

3.54. Mr Stephenson has considered the potential effect of the proposed signalisation of the Church Street/High Street junction. Mr Stephenson concludes that the installation of traffic lights and a control box may result in *'less than substantial harm at the very lowest end of a notional spectrum of harm'* (paragraph 5.14). Mr Stephenson considers that the changed context may be imperceptible, other than when dark.

3.55. Upon receipt of the *'heritage witness evidence'*, from the Rule 6 Party Rebuttal Evidence may be required from Mr Stephenson.

Topic E: Ecology

3.56. The Scott Schedule identifies four matters of disagreement. I address matters which have not been raised by the LPA in the now withdrawn reasons for refusal.

E1 – Extent of Hedgerow Loss for Visibility Splays

3.57. The Written Statement by Dr Holly Smith, attached as **Appendix 7 (CD D21)** addresses this issue in the context of paragraph 41 of the Rule 6 Party's Statement of Case (**CD B26**).

3.58. Dr Smith states 1.1.4 – 1.1.8:

'It is incorrect to state that the PEA "assumes local rather than national designation" applies to the hedgerows. The PEA simply concludes that "Hedgerows and scattered trees are considered to be of importance up to a local level, primarily due to the species diversity and habitat connectivity they provide".'

All qualifying hedgerows are protected by the Hedgerow Regulations 1997 this does not mean that all qualifying hedgerows are of national importance. All hedgerows need to be assessed regardless of whether they are protected by the Hedgerow Regulations. CIEEM guidance² states that the importance of an ecological feature should be considered within a defined geographical context. Hedgerows on the site were considered to be Important in a local geographical context by taking into consideration other contributing features, as set out in Paragraph 4.6 of the CEEM guidelines, primarily the extent of the habitat present set within a geographical scale.

The Rule 6 Party has not provided a critique of the PEAs assessment of the hedgerows or any evidence of their own of the hedgerows' importance to suggest the PEA is incorrect.

It is understood that the LPA ecologist has not contested the importance assigned to hedgerows on the site.

Protection of Important hedgerows at the reserved matters stage could be controlled via draft planning conditions 5, 12 and 18'.

E2 - Bats and protected species not robustly surveyed.

3.59. Dr Smith states (Paragraph 1.1.15):

'Bat activity surveys were undertaken in May, July, August and September 2021 which was within the survey season for undertaking bat surveys as set out in guidance by the Bat Conservation Trust 2016'.

E3 – Reference to Ancient Woodland

3.60. In respect of the criticism alleging failure to acknowledge Pounce Wood as ancient woodland and Local Wildlife Site, Dr Smith refers to Table 8.4A ES. Pounce Wood is not designated a SSS1.

E4 – Impact on High Quality Hedges, River Meadow and Mature Habitats

3.61. Reference to ‘river meadow’ is not made in the Rule 6 Party’s Statement of Case. The findings of the ES are considered by Dr Smith to remain relevant. Dr Smith concludes that a 18% net gain in hedgerow habitat may be secured by the development. The hedgerows on the site were considered to be important in a local geographical context.

3.62. The assessment undertaken applying the Defra 3.1 Metric demonstrates (by reference to the Parameters Plans) that the scheme has the potential to achieve a circa 13% BNG.

Topic F: Access

3.63. All these issues have been satisfactorily addressed with the LPA in consultation with the Local Highway Authority.

Topic G: Transport

3.64. All these issues have been satisfactorily addressed with the LPA in consultation with the Local Highway Authority.

Topic H: Air Quality

H1 – Scale of development located where it is necessary to travel through the AQMA

3.70 The Rule 6 Part contend that *‘the development will have a significant impact on the AQMA’*. Mr Jupp states in his Proof of Evidence (CD D10) as a professional expert in air quality management that the impact of the proposed development on air quality inside and outside the AQMA would be *‘not significant’*.

H2 – Materiality of Environmental Health Officer’s Concerns

3.65. The ES Addendum (**CD A64**) concludes (paragraphs 7.130 – 7.133):

‘On the basis that there will be a site specific CEMP which will incorporate measures to reduce dust and traffic emissions, emissions as a result of construction activities will be adequately mitigated and impacts will not be significant.

The ADMS dispersion model has been used to predict the impact of the operational development on local NO₂, PM₁₀ and PM_{2.5} concentrations. The assessment has used conservative assumption to predict impacts in 2026.

The assessment has predicted a negligible impact on concentrations of all three pollutants as a result of operational traffic. The impact of the proposals on existing receptors would be not significant.

The assessment has predicted NO₂, PM₁₀ and PM_{2.5} concentrations ‘well below’ the relevant objective limits at all proposed receptors. The impact of the Development in relation to new exposure would be not significant.’

3.66. A summary of the effects on Air Quality is set out at Table 7.11 of the ES Addendum (CD A64).

Topic I: Noise

11 – Noise Arising from Traffic Generation

3.67. The Scott Schedule sets out the Appellants’ position. A Written Statement has been prepared in response to the Rule 6 Party’s Statement of Case (paragraph 26). This is attached as **Appendix 5 (CD D22)**. Mr Brownstone concludes (section 5):

‘The points raised by Saffron Walden Town Council and Swards End Parish Council do not raise new material concerns in terms of noise and vibration. The points that they raise have been assessed in the submitted noise assessments, and it is understood they are not disputed by the relevant technical officers at Uttlesford District Council.

The noise assessments demonstrated that:

- *noise and vibration from road traffic generated by the proposed development once it is complete and occupied will not lead to adverse effects; and*
- *the acoustic climate at the site is suitable for residential development.*

It is understood that neither of these points are disputed by the relevant technical officers at Uttlesford District Council.

Draft conditions have been agreed between the appellant and Uttlesford District Council that will secure a site layout with appropriate measures to control noise levels at the site (draft Condition 13), and will put in place appropriate controls for the management of the construction works (draft Condition 11).'

3.68. It is, of course, accepted that during the construction phase there may be some disturbance by reason of noise. Such incidences will be minimised through the provisions of a Construction Environment Management Plan (CEMP) as required by proposed planning condition 10. Table 11.8A of the ES Addendum identifies the potential impacts on noise and vibration and the residual effects. The environmental assessment has concluded that operational traffic noise is not likely to lead to significant effects at the noise sensitive receptors close to the site. (The noise sensitive receptors are identified at Figure 11.2A).

3.69. The Rule 6 Party's contention that the development will cause a significant increase in noise from traffic generation to affect Saffron Walden and Stewards End is considered to be unsubstantiated assertion with no evidence base.

Topic J: Flooding

3.70. An objection on grounds of flooding reveals a misunderstanding of the measures which are required with any built development on greenfield land. The site is Flood Zone 1 being the preferred location for built development. Surface water runs off greenfield land. The same amount of rainfall will occur when the site is built out, but, unless mitigated, would run-off at a faster rate. In all new developments, surface water is attenuated within the development site to ensure that it runs off at the existing greenfield run-off rate, i.e. no greater rate of run-off.

3.71. In designing for storm water run-off, an assumption is made as to the potential increase in rainfall as a consequence of climate change. A 40% climate change allowance is provided for (ES Paragraph 9.39). The attenuation of storm water is to be designed to hold this potential increase in storm water. As such, there is no risk of flooding to properties on the site, or increased risk to properties off site from this development.

3.72. The Appellants' drainage engineers have provided a Written Statement, attached as **Appendix 6 (CD D23)**, which addresses the five points now raised by the Rule 6 Party – including matters not raised in their Statement of Case (*'Sequential development applies'*).

3.73. The scale of the development is not a determining consideration as to whether decision-taking follows the Framework paragraph 11(d)(i) (Footnote 7). The site is wholly located on land in Flood Zone 1 – the least at risk to flooding. Paragraph 11(d)(i) is not engaged in the context of flood risk.

Topic K: Safety

3.74. The HSE is the specialist consultee on matters relating to public safety from hazardous installations. HSE does not object to the development. The Appellants have consulted the Agents to Exolum.

3.75. The existence of the oil pipeline, including the requirement for maintenance access, is a matter that can be adequately addressed within the submission of Reserved Matters (layout). The route and easement width have been safeguarded within the Parameters Plan.

Topic L: Design

3.76. The Rule 6 Party in the Scott Schedule has referred to *'landscape witness evidence'*. Mr Andrew Williams has prepared a document – entitled *Presentation of Landscape-Led Design Approach and Application Principles and Parameters* – in response to the Statement of Case issued by the Rule 6 Party. In consequence of the contention now made in the Scott Schedule that the development is *'constraint-led'* rather than character-led, this document is now issued in the form of a Proof of Evidence (**CD D16**).

3.77. Mr Williams may consider that Rebuttal Evidence is necessary upon receipt of the written witness evidence from the Rule 6 Party.

3.78. I rely upon the conclusions in the *Presentation* document, namely:

'This presentation of the scheme's landscape led design approach illustrates how the conception of the scheme is context driven with the specific aim of making it feel 'of its place' in a way that more recent development in Saffron Walden has not achieved. It specifically studies the wider landscape to understand the relationship between settlement and landscape to help the proposed change assimilate into this context.

The proposed scheme parameters demonstrate the landscape led approach, with over 55% of the site being some form of green infrastructure, leading to over 200% of the open space required by policy being delivered.

The proposed design principles embed (via the Placemaking Plan) an approach to open spaces, site edges, internal streets, urban blocks and landmark buildings that can create a beautiful scheme that is 'of its place'.

In summary, I consider the approach, scheme parameters and principles to be highly appropriate to the site and its context. It takes the opportunities to improve the character and function of the local area, ensures that there is no harm to the identify of Swards End and will deliver a stunning new area of public parkland with vantage points both to Saffron Walden and the local landscape.'

Topic M: Facilities

- 3.79. The Statement of Case issued by the Rule 6 Party does not make reference to the footpath on Radwinter Road leading to Swards End. I have informed the Rule 6 Party that the lack of maintenance of the footpath is a matter principally for the Highway Authority to remedy. I have made reference to the powers available to a Parish Council to maintain a public footpath. (S43 Highway Act 1980).
- 3.80. The development, albeit lying within the administrative area of Swards End Parish Council, is geographically an extension to Saffron Walden. The future residents of the development will primarily take advantage of the services and facilities available in Saffron Walden. The extent to which residents may seek to use the limited services in Swards End does not justify the physical alteration of the existing footway. The LHA has not suggested that such a highway improvement is necessary to make the development acceptable.

3.81. The Scott Schedule states '*there is no financial contribution given to Saffron Walden*'. As a statement of fact, this is correct. As a statement of objection against the granting of consent, it is misconceived. The planning process is not an opportunity to coerce extraneous benefits from new development.

3.82. The planning obligations entered into meet the contributions sought by the Education Authority and the NHS. Other planning obligations and provisions from this development will have wider public benefits.

3.83. I consider that the statements made by the Rule 6 Party regarding facilities are without foundation as a basis for refusal of planning permission.

Conclusions

3.84. In my opinion, the Rule 6 Party has not identified within the Statement of Case or the Scott Schedule any significant adverse impacts that would arise from the granting of planning permission. With respect, the objections raised are generalised assertions – reflecting a 'root and branch' objection to the principle of development without recognising that development needs have to be met in a civilised society, in the overall public interest. The impact of the development on the environmental considerations raised has been minimised through the scheme design, planning conditions and Obligations.

4 PLANNING BALANCE

4.1. I have identified the following benefits from the three dimensions of sustainable development and have exercised my planning judgement as to the weight which should be given to these benefits.

	Public Benefit	Weight
		Appellants
i)	Provision of Open Market Housing	Substantial
ii)	Provision of Affordable Housing	Substantial
iii)	Provision of Custom Build Housing	Substantial
iv)	At least 10% Biodiversity Net Gain	Moderate
v)	Employment Opportunities (during construction and as a consequence of new homes being occupied)	Moderate
vi)	Wider Benefits arising from provisions of the Planning Obligations	Moderate

4.2. I have, firstly, considered the ‘*less than substantial harm*’ to the significance of designated heritage assets which Mr Stephenson has identified arising from the installation of traffic lights at the junction of Church Street/High Street. I have placed ‘*great weight*’ on this level of harm. I conclude that the harm is significantly outweighed by the public benefits arising from this development as I have identified above. I conclude that the decision-taking approach set out at Framework 11(d)(i) is not engaged by this development.

4.3. I acknowledge that, on the negative side of the planning balance, the development will involve the loss of greenfield land – and have an inevitable impact upon the landscape character and visual amenity of the site. I acknowledge the loss of hedgerow to enable visibility splays to be provided – and that this loss is compensated by an 18% net gain in hedgerow habitat. The loss of BMV and the less than substantial harm to designated heritage assets (given great weight) are placed on the negative side of the planning balance. In the context of the need for more land for housing, I consider the loss of greenfield land and land of BMV is unavoidable and

necessary. I conclude that these impacts on the environmental objective of sustainable development are of limited weight against the development.

4.4. I conclude that the conflict with the dominant policies of the development plan (S1; S7; ENV5) should be ascribed **very limited weight** against the granting of planning permission. I have set out my reasoning for this judgement.

4.5. I am firmly of the opinion that the adverse impacts do not become near to outweighing the benefits that would flow from the granting of planning permission. With the resolution of the highway issues, I consider the LPA has properly and reasonably withdrawn its objections to the development. I believe this development could and should have been permitted by the LPA.

4.6. I have considered the issues raised by the Rule 6 Party on the matters raised, which did not feature in the reasons for refusal. In my opinion, these objections are not well founded. At the time of writing this Proof of Evidence, I form the opinion that matters raised relating to alleged environmental deficiencies of the scheme are tantamount to unsupportable assertion. The Statement of Case provided by the Rule 6 Party does not refer to any professional assessment of the issues which might underpin an objection to the development.

4.7. I consider that the Rule 6 Party has not identified any environmental considerations which would be offended by the proposals to an extent of magnitude that *'significantly and demonstrably'* outweighs the benefits I have identified.

4.8. Decision-taking has to be formed in the overall public interest. The Planning Obligations ensure that physical and social infrastructure required by the development will be delivered. Wider public benefits are achieved by the Planning Obligations. The provision of a substantial area of

public open space will have wider public benefit. Its amenity value is not confined to the future residents of this site. Reasonable planning conditions have been agreed with the LPA to ensure that the development delivers good design overall. The planning balance, applying the approach to decision-taking at paragraph 11(d)(ii) (the 'tilted balance'), lies substantially in favour of the grant of planning permission. This proposal amounts to sustainable development and should be brought forward without further delay.