

**PROOF OF EVIDENCE OF
TIM DAWES MRTPI (DIRECTOR FOR
PLANIT CONSULTING)**

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

**PUBLIC INQUIRY SCHEDULED FOR
6 SEPTEMBER 2022**

**APPEAL AGAINST REFUSAL OF OUTLINE 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
(UTT/21/2509/OP)**

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1 Introduction

1.1 I, Tim Dawes, have been appointed by Uttlesford District Council (the Council) to provide town and country planning evidence at the Public Inquiry into this appeal against the Council's refusal of planning permission for the development described in the title page to this, my proof of evidence. As I will explain, matters have moved on considerably since the appeal was launched.

1.2 I hold over 27 years of professional experience principally in Development Management and nearly all in Local Authority public sector planning. On 1 October 2021 I left my position as Head of Place at Guildford Borough Council and on 8 November 2021 I joined 'Planit Consulting' in Godalming as their Planning Director. Planit is an independent planning consultancy established in 2004. I have appeared as a professional expert witness in several Public Inquiries, most recently for Basingstoke and Deane for the Camrose Football Stadium Inquiry. I hold a BA Hons Town Planning Degree from South Bank University and I am chartered member of the Royal Town Planning Institute.

1.3 I am familiar with the appeal site and surrounding area, having conducted a comprehensive site visit on Tuesday 13 June 2022 with Maria Shoemith, Development Management Team Leader (North) of Uttlesford District Council. I have made myself aware of the planning policy background and all relevant issues connected to this appeal and the planning application.

1.4 The evidence provided is my true and professional opinion.

- 1.5 A description of the site, its planning history and a summary of the proposed development are provided within the Council’s Statement of Case, which is to be read in conjunction with this Proof of Evidence.

2 Reasons for refusal

2.1 At its Thursday 17 March 2022 meeting (which was a continuation of the 16 March 2022 meeting), the Council's Planning Committee resolved to refuse planning permission for application UTT/21/2509/OP. On 18 March 2022 the Council's decision notice was duly issued, refusing planning permission for the following five reasons: -

1. The submitted application has not demonstrated that pedestrian and cycle movement with neighbouring areas have been given priority.
 - a. There is no permeability from the site to allow easy access to the adjacent development and facilities for pedestrians and cyclists.
 - b. The quality of the key routes for pedestrians and cyclists has not been assessed and limited improvement is proposed for mitigation.

The proposal is therefore contrary to the Highway Authority's Development Management Policies DM1, DM9, DM11, DM15 adopted as County Council Supplementary Guidance in February 2011, and the Policy GEN 1 of the Uttlesford District Council Local Plan and the NPPF.

2. It cannot be determined from the submitted application that the residual, cumulative impact is on the road network is acceptable as it has not sufficiently been demonstrated that the mitigation proposed in the application will be deliverable or effective for the following reasons:

a. It is not clear that the deliverability of the schemes has been considered adequately.

b. Church Street High Street

i). The deliverability of this scheme has not been adequately demonstrated it will be difficult to add control to due to the narrow footways and carriageway. Position of the equipment and maintenance bay, the presence of street furniture and cellars have not been taken into account.

ii). Any signal placed in this location would have to be linked to the existing signals on the high street, which may require refurbishment of the whole system.

iii). Although not a highway matter it is not clear that the impact on the historic buildings has been taken into account which stop the delivery of the scheme.

c. Sustainable Transport

i. There is not sufficient information in the submitted application to demonstrate that effective mitigation to promote sustainable transport and help limit the impact of the development on the town highway network which has been demonstrated to be over capacity number at a number of junctions impacted by traffic from this development.

The proposal is therefore contrary to the Highway Authority's Development Management Policies DM1, DM9, DM11, DM15 adopted as County Council Supplementary Guidance in February 2011, and the Policy GEN 1 of the Uttlesford District Council Local Plan and the NPPF 2021.

3. The applicant has provided insufficient ecological information on European Protected Species (bats). The proposal is therefore considered contrary to the implementation of Policies GEN7 and ENV7 of the adopted Uttlesford Local Plan 2005 and the relevant passages contained within Section 15 of the National Planning Policy Framework 2021.
4. The proposed development would fail to provide and facilitate active travel measures and would therefore have a negative impact on the climate, the environment, and the local and national emissions goals. Therefore, the proposed development would be contrary to Policy GEN2, Uttlesford Interim Climate Change Policy and the NPPF 2021.
5. The proposed development fails to deliver appropriate infrastructure to mitigate any impacts and support the delivery of the proposed development including affordable housing provision, contributions to education and contributions to libraries. The proposal is therefore considered contrary to the implementation of Policies GEN6 - Infrastructure Provision to Support Development, and Policy H9 - Affordable Housing, of the Adopted Uttlesford Local Plan 2005, and the National Planning Policy Framework 2021

- 2.2 The Council explained in its Statement of Case that reason for refusal 3 was no longer being pursued on the basis it could be dealt with by planning conditions. I can confirm that reason for refusal 3 is no longer being pursued by the Council.
- See appendix 5 for the draft planning conditions.**

- 2.3 On 25 July 2022, the Council wrote to the Planning Inspectorate to explain that subject to a satisfactory completion of a section 106 legal agreement and the agreement of draft planning conditions, it was also withdrawing reasons for refusal 1,2 and 4. This followed highways /mitigation measures put forward by the appellants, and a Highways addendum to the SOCG being agreed, signed and dated 25/7/22 by Essex County Highways and the appellants. The addendum can be found in **appendix 6**.
- 2.4 These mitigation measures are agreeable to both Uttlesford District Council and Essex County Highway Authority. The mitigation proposed will be secured by both the section 106 legal agreement (once completed) and suitably worded planning conditions. Therefore subject to completion of the section 106 legal agreement and subject to the imposition of suitable planning conditions, the three highway /transport reasons for refusal (1,2 and 4) have been withdrawn.
- 2.5 One reason for refusal remains, (which is reason 5). This is because the Council's position on reasons for refusal 1-4 means that the key question is whether the mitigation promised by the appellants has been secured (which is the target of reason for refusal 5).
- 2.6 It is worth reiterating as the focus will be on that reason for refusal.

(5) The proposed development fails to deliver appropriate infrastructure to mitigate any impacts and support the delivery of the proposed development including affordable housing provision, contributions to education and contributions to libraries. The proposal is therefore considered contrary to the

implementation of Policies GEN6 - Infrastructure Provision to Support Development, and Policy H9 - Affordable Housing, of the Adopted Uttlesford Local Plan 2005, and the National Planning Policy Framework 2021.

3 Relevant Planning Policy Context

3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan is therefore the starting point for the assessment of the appeal development.

3.2 When weighing all material considerations, I consider it important to have a transparent weighing scale. For ease, I have adopted the following weighting descriptions (in order of significance):

- Full;
- Substantial;
- Considerable;
- Significant;
- Moderate;
- Modest;
- Limited;
- Little to none.

Saved Policies of the Uttlesford Local Plan (2000-2011) Adopted in 2005

3.3 The statutory development plan for the purposes of the overarching test for this appeal set by s.70 of Town and Country Planning Act 1990 and s.38(6) of the Planning and Compulsory Purchase Act 2004 comprises (so far as relevant):

- The Uttlesford Local Plan 2005 (saved policies); and
- Essex Minerals Local Plan (July 2014)

3.4 The Uttlesford Local Plan was adopted in January 2005. Many of its policies were saved in December 2007. The countryside is defined by policy S7 as all those parts beyond the Green Belt which are not within the settlement boundary. It expects the countryside to be protected for its own sake only allowing development which needs to take place there or is appropriate to a rural area.

3.5 The Essex Minerals Local Plan (July 2014) also forms part of the development plan. Policy S8 (Safeguarding mineral resources and mineral reserves) is relevant.

3.6 It is my view (which I know is shared by the Council) that the following list of Local Plan policies and local guidelines are most relevant to determination of the appeal, as matters now stand between the Council and the appellants.

Uttlesford Local Plan 2005 (ULP)

Policy H9 – Affordable Housing

Policy H10 - Housing Mix

Policy GEN 1 – Access

Policy GEN2 - Design

Policy GEN 6 – Infrastructure Provision to support development

Supplementary planning documents

Accessible Homes and Play Space (November 2005);
Energy Efficiency and Renewable Energy (October 2007);
Urban Place Supplement to the Essex Design Guide (March 2007);
Essex County Council Development Management Policy (February 2011);
Essex County Council Parking Standards (September 2009);
UDC Parking Standards; and
Essex Design Guide (2018).

3.7 As per the Council's statement of case (paragraph 6.3 and worth repeating here), the Council accepts that its lack of a 5 year housing land supply means that some of these policies are to be treated as being out of date for the purpose of the NPPF 2021, but maintains that these policies remain broadly consistent with the NPPF and should therefore be given due weight at this appeal in accordance with paragraph 219.

3.8 I now briefly introduce those local plan policies I consider most relevant to determination of this appeal.

3.9 Policy GEN1 states “Development will only be permitted if it meets all of the following criteria:

- a) Access to the main road network must be capable of carrying the traffic generated by the development safely.
- b) The traffic generated by the development must be capable of being accommodated on the surrounding transport network.
- c) The design of the site must not compromise road safety and must take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired.
- d) It must be designed to meet the needs of people with disabilities if it is development to which the general public expect to have access.
- e) The development encourages movement by means other than driving a car.”

3.10 The preamble to the Policy GEN1 highlights that;

“The objectives in this Plan are to locate high trip generating activity in areas well served by public transport; to increase the proportion of journeys made by rail and bus, on foot and by cycle; to reduce the number and length of motor vehicle trips by the location of development; and to minimise the adverse effects of traffic on residential and shopping areas by traffic management measures. The Council will work with highway authorities to ensure that, whenever possible, transport investment and the resultant transport network will support the Plan’s development strategy and policies.

- 3.11 The impact of development on the road network will be assessed and Traffic Impact Assessments may be required as part of applications for planning permissions. Improvements to the transport infrastructure will be sought where appropriate. The environmental impact of traffic arising from a development will similarly be assessed and Environmental Assessments may also be required. The cumulative impact of developments will also be taken into account.
- 3.12 Development proposals for any building that the public may use will be required to provide safe, easy and inclusive access for all people regardless of disability, age or gender. This should include access to, into and within the building and its facilities, as well as appropriate car parking and access to public transport provision. The needs of walkers, cyclists and horse riders will be taken into account whenever development would affect routes used by riders or where the potential for the creation of new paths along strategic routes would be jeopardised. Suitable replacement paths will be required when routes used by walkers and riders will no longer be suitable for continued use as a result of other changes to the road network or new development.”

3.13 Policy GEN2 Design, seeks to ensure that development will not be permitted unless its design meets all the criteria and has regard to adopted supplementary Design Guidance and Supplementary Planning Documents.

- a) It is compatible with the scale, form, layout, appearance and materials of surrounding buildings;
- b) It safeguards important environmental features in its setting, enabling their retention and helping to reduce the visual impact of new buildings or structures where appropriate;
- c) It provides an environment, which meets the reasonable needs of all potential users.
- d) It helps to reduce the potential for crime;
- e) It helps to minimise water and energy consumption;
- f) It has regard to guidance on layout and design adopted as supplementary planning guidance to the development plan.
- g) It helps to reduce waste production and encourages recycling and reuse.
- h) It minimises the environmental impact on neighbouring properties by appropriate mitigating measures.
- i) It would not have a materially adverse effect on the reasonable occupation and enjoyment of a residential or other sensitive property, as a result of loss of privacy, loss of daylight, overbearing impact or overshadowing.

3.14 Policy GEN6 of the saved plan addresses infrastructure provision to support development and states:

Development will not be permitted unless it makes provision at the appropriate time for community facilities, school capacity, public services, transport provision, drainage and other infrastructure that are made necessary by the proposed development. In localities where the cumulative impact of developments necessitates such Uttlesford Local Plan – Adopted January 2005 16 provision, developers may be required to contribute.

3.15 Policy H9 of the local plan addresses affordable housing:

The Council will seek to negotiate on a site to site basis an element of affordable housing of 40% of the total provision of housing on appropriate allocated and windfall sites, having regard to the up to date Housing Needs Survey, market and site considerations.

3.16 Policy H10 of the local plan addresses housing mix and advises the following:

All developments on sites of 0.1 hectares and above or of 3 or more dwellings will be required to include a significant proportion of market housing comprising small properties.

Updated timetable for new local plan

3.17 Uttlesford submitted its Regulation 19 Plan (eLP) to the Secretary of State for independent examination in January 2019. However, the Examining Inspectors concluded following the Stage One Examination that the Plan was not sound and the Council withdrew the Local Plan in March 2020, with a view to preparing a new Local Plan.

3.18 Following the withdrawal of that Plan, the Council published its Local Plan Development Scheme 2020 (LPDS) in October 2020 and outlined the timetable for the preparation of the new Local Plan. The most recent Uttlesford draft Local Development Scheme (LDS) was approved by Uttlesford District Council on 7 July 2022. It is the sixteenth LDS produced by the Council. It replaces the previous LDS, dated 20 October 2020. The current timetable is as follows: -

- July to September 22 - Preferred options preparatory work
- November and December 22 – Consultation and publication
- January to September 23 - Pre submission preparatory works
- November to December 23 – Consultation and publication
- January to February 24 – Submission preparatory work
- March 24 – Governance
- March 24- March 25 – Examination
- Adoption Spring 2025

3.19 The aim currently is to have the new local plan in place by Spring 2025. See **appendix 3** for the current local plan timetable in full.

National Planning Policy Framework

3.20 For the avoidance of doubt, references to the NPPF in this Proof are made in respect of the July 2021 revised publication.

3.21 The Council accepts that it does not have a Five Year Housing Land Supply (5YHLS). The Council considers it can demonstrate 3.52 years supply as of April 2021. It is accepted that this is a significant shortfall.

3.22 It is not considered necessary to repeat individual sections of the NPPF at length, however the following chapters have particular relevance in the determination of the appeal:-

Section 2 (Achieving sustainable development)

Section 4 (Decision-making)

Section 5 (Delivering a sufficient supply of homes)

Section 8 (Promoting healthy and safe communities)

Section 9 (Promoting sustainable transport)

Section 11 (Making effective use of land)

Section 14 (Meeting the challenge of climate change, flooding and coastal change)

- 3.23 Paragraph 219 of the NPPF confirms that existing policies should not be considered out of date simply because they were made prior to the publication of the NPPF. Instead due weight needs to be given to them according to their degree of consistency with the NPPF, and the closer the policies in the plan to the policies in the NPPF the greater the weight may be given.
- 3.24 Paragraph 73 of the NPPF requires authorities to identify suitable locations for new homes and development and where it can help meet identified need in a sustainable way.
- 3.25 In rural areas the NPPF advises in paragraph 78 that ‘planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs.’

3.26 Paragraph 130 advises that 'Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Other material documents

- National Planning Practice Guidance
- The Community Infrastructure Levy (CIL) Regulations 2010 (Revised 2015)

3.27 Regulation 122 of the Community Infrastructure Levy Regulations 2010, (as amended), sets out the tests for the use of planning obligations. Obligations should only be sought when they meet the following tests and the obligations are:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development, and;
- c) Fairly and reasonably related in scale and kind to the development.

3.28 The Council is confident and I agree that the section 106 legal agreement being promoted as part of the appeal process conforms to these three tests. A draft Regulation 122 compliance schedule can be found at **appendix 4**.

4 Evidence on the reasons for refusal as matters now stand

- 4.1 The single issue for consideration at this Inquiry (following the withdrawal of reasons 1,2,3 and 4) is reason for refusal 5. This is on the basis of the signing of a satisfactory section 106 legal agreement and subject to satisfactory draft planning conditions being agreed.
- 4.2 In light of the Council's updated position, it is important to consider the draft planning conditions that have almost been agreed by the appellants and the Council, subject to some debate as to whether 2 further highways conditions are strictly necessary. The list of draft planning conditions were also shared with the Rule 6 Party from Monday 18 July 22. The list of draft planning conditions can be found in **appendix 5**.
- 4.3 Similarly, the appellants and the Council have been working together to prepare a comprehensive section 106 planning obligation in the form of a legal agreement, that addresses what is required to make this outline application for 233 homes acceptable and also includes a section 278 Highways Act 1980 agreement. More recently this has also included the Town and Parish Council's Rule 6 Party for comments and inclusion. At the point of writing my proof of evidence, the section 106 legal agreement has not been completed and remains in draft.

Section 106 legal agreement

4.4 It is worth firstly setting out the agreed Heads of Terms that have been put forward in association with the proposal. They are: -

- 40% affordable housing
- Public open space
- Health care contribution of £119,730 to mitigate the capital cost to the NHS
- Custom build housing (5% of the number of market dwellings)
- Education contribution
- Library contribution
- Highways and transport obligations
- Safeguarded Land for the purpose of an upgrade for a future relief road
- Monitoring fees

4.5 It is worth going through these individually to see what is provided with the scheme.

40% affordable housing

4.6 40% affordable housing has been agreed to provide a balanced community in accordance with Local Plan Policy H9. The provision of affordable housing on-site is necessary to meet an identified need and is a requirement of both national and local planning policy.

4.7 The provision of affordable housing on site is directly related to the development and the provision of 40% on site is considered to be fairly and reasonably related in scale and kind to the development.

Public open space

- 4.8 Paragraph 98 of the NPPF 2021 sets out that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities and Paragraph 92 supports healthy lifestyles and local well-being by providing access to healthier food and allotments. Planning policy therefore requires the provision of open space on site, which is necessary to make the development acceptable in planning terms. The open space and play areas would be situated within the development areas and serve the future residents of the appeal development directly and would be available to all residents as public open space.

Health care contribution of £119,730 to mitigate the capital cost to the NHS

- 4.9 The development would give rise to a need for improvements to capacity, in line with the emerging Hertfordshire and West Essex Integrated Care Board estates strategies, by way of extension, refurbishment, reconfiguration or potential relocation for the benefit of the patients at Gold Street Surgery, a proportion of the cost of which would need to be met by the developer.
- 4.10 A developer contribution has therefore been secured to mitigate the impacts of this proposal. The Hertfordshire and West Essex Integrated Care Board calculates the level of contribution required, in this instance to be £119,730.

Custom build housing (5% of the number of market dwellings)

- 4.11 Paragraph 60 of the NPPF sets out that “to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.”
- 4.12 In that respect the Council is obliged to keep a register of interested parties for self-build and serviced plots and that is what they would rely on in respect of this provision.

Education contribution

Early years and childcare

- 4.13 The County Council to meet its statutory duties must both facilitate sufficient places to meet free childcare entitlement demand and also ensure a diverse range of provision so that different needs can be met. The data shows insufficient places to meet demand from this proposal. An additional 18.18 would be provided at an estimated cost of £313,932.24 at January 2020 prices. This equates to £17,268 per place and so based on the demand generated by this proposal as set out above , a developer contribution of £313,932,24 index linked to January 2020 is sought to mitigate its impact on local EY and C provision.

Primary education

4.14 The development would sit within the priority admission area of RA Butler infant and junior school, which has a published admission number of 90 pupils per year. As at the last school census in October, they had a combined number on roll of 636 pupils. Forecasts for the Saffron Walden Area (Uttlesford Group 2) set out in the Essex School Organisation Service 10 Year Plan, suggests growth in demand for places over the period. It is anticipated that a new school may be required to serve the town long term and a land option to facilitate this has been secured through section 106 agreement. The estimated cost of the project is £1,046,440.80 at January 2020 costs. This equates to £17,268.00 per place so based on the demand generated by this proposal as set out above a developer contribution of £1,046,440.80 index linked to January 2020 is sought to mitigate its impact on local primary school provision.

Library contribution

4.15 In accordance with the Essex County Council Development Guide to Infrastructure Contributions a contribution is considered necessary to improve enhance and extend facilities and services provided at a cost of £77.80 per unit, respectively. Improvements could include (but is not limited to) additional facilities, additional furniture, provision of learning equipment/play equipment for younger children, improved access, external works such as parking and bike racks and IT. In this case it is calculated that a contribution of £18,127.40 is requested, which works out at £77.80 per dwelling.

Highways and transport obligations

4.16 This section can be broken down into the following main categories:

- Bus service contribution
- Car club contribution and car club costs
- Off-site pedestrian and cycle contribution
- Sustainable travel vouchers
- Monitoring fees:
- Delivery of the westerly cycle /pedestrian link (an actual link)
- Safeguarded Land for the purpose of an upgrade for a future relief road

Bus service contribution

4.17 A contribution of £2600 per dwelling is required to enhance bus services in Saffron Walden in order to service the site. Essex County Council commit to serving the site via a regular service to key services and facilities as part of the emerging transport plan for Saffron Walden.

Car club contribution and car club costs

4.18 Car clubs allow users to access a vehicle without owning one and can offer a flexible, convenient alternative to private car ownership or leasing. Car clubs provide residents, visitors or businesses with access to a vehicle, often as a short-term rental by the hour.

4.19 By providing an alternative to driving a private car, car clubs reduce carbon emissions, air pollution, parking pressure and congestion, while supporting the shift to lower carbon forms of travel.

4.20 As to costs and contributions, these would be: -

- Annual membership for 5 years- £300 per dwelling;
- 10 hours driving credit- £80 per dwelling; and
- Pump priming operational costs of 1 electric vehicle for 5 years- £43,333.

4.21 It has been agreed that the contribution will be paid to UDC, who will operate the future car club. It has previously been agreed that provision of a publicly accessible car club parking space with Electric Vehicle Charging Point within the development will be secured via planning condition.

Off-site pedestrian and cycle contribution

4.22 This contribution would be used towards costs of off-site pedestrian/cycle improvements between the Development and local facilities and services in Saffron Walden.

Sustainable travel vouchers

4.23 The implementation of a residential and a work place travel plan and provision of travel pack is required to ensure the appropriate opportunities to promote sustainable transport modes can be taken up in accordance with NPPF paragraph 110, Local Plan Policies GEN1 and GEN2. This means a voucher to a

value of £100 for sustainable travel (which may include tickets passes credits or other means of accessing transport such as vouchers for use towards purchasing a bicycle/electric bicycle) or journey planning information as agreed with the ECC including scratch card bus tickets per household or a season ticket voucher and/or incentives for rail travel with the local rail operator.

Improvement to the pedestrian crossing point at the access junction to the Tesco store

- 4.24 The existing pedestrian crossing is poorly located with respect to the desire line and pedestrian visibility to approaching vehicle, which is partially restricted by adjacent vegetation. The Appellants are willing to include the requested improvement as part of the highway works. They advise in their very recent statement of common ground addendum that the design of a suitable scheme (to the satisfaction of ECC and within the publicly adopted highway) and delivery of the agreed scheme, can be secured via a S106 obligation. This S106 obligation would include a clause that should a suitable scheme to the satisfaction of ECC not be deliverable within the publicly adopted highway, there would be no obligation to undertake any works in this location.

Monitoring fees

- 4.25 The requirement for a residential and a work place travel plan and associated fee monitoring fee is outlined in the Essex County Council Developers Guide to Infrastructure Contributions 2020. The fee is for services supplied to the developer by ECC, for the provision of support and advice to the onsite Travel

Plan Co-ordinator on the management and implementation of the Residential Travel Plan, thus enabling them to effectively deliver the Travel Plan. The fee for the residential travel plan is £1,596 per annum which covers 5 years.

Delivery of the westerly cycle /pedestrian link (an actual link)

- 4.26 A 3m wide shared link will be provided up to the western boundary of the site, so as to provide a potential shared footway / cycleway link to the Redrow Homes Development. This will be secured using ‘best endeavours’ by virtue of an obligation within the section 106 legal agreement.

Safeguarded Land for the purpose of an upgrade for a future relief road

- 4.27 The safeguarding of land to potentially allow a highway connection from the site to the south is acknowledged as not being necessary to make the development acceptable. The Appellants have agreed to the request for this safeguarding in the interests of ‘good planning’. The requirement for all these section 106 provisions conforms to the three regulation 122 tests.

Planning conditions

- 4.28 At the point of writing this proof of evidence, the Council, County Highway Authority and the appellants have almost reached agreement on a list of draft planning conditions for consideration at a round table session at the Inquiry. This list of conditions can be found in **appendix 5**. There are 24 planning conditions proposed. Of particular relevance are the current highway planning conditions which are:-

Condition 20

20. Prior to first occupation of the proposed development, a residential travel plan shall be submitted to the Local Planning Authority for approval in consultation with Essex County Council. The approved travel plan shall include provision for travel packs to be provided to all residents setting out public transport options, promoting cycling and walking routes, and a travel plan co-ordinator and shall then be implemented for a minimum period from first occupation of the development until 1 year after final occupation.

Condition 21

21. Prior to the construction of any dwelling, a scheme shall be submitted to, and approved by, the local planning authority which includes the following:

- a) Capacity improvements for the Radwinter Road/Thaxted Road/East Street/Chaters Hill junction as shown in principle on Dwg No. CTP-20-1142 SK10 Rev A;
- b) Signalisation of the Thaxted Road/Peaslands Road junction as shown in principle on Dwg No. CTP-20-1142 SK11 Rev A;
- c) Signalisation of the Church Street/High Street junction as shown in principle on Dwg No. 2206-01-TS-01 Rev B. The scheme shall include appropriate connections with the existing signals at the High Street/George Street junction.

The approved works shall include (but not be limited to) all necessary traffic regulation orders, safety audits, lighting, signing and surfacing and shall be implemented prior to first occupation of the development.

Condition 22

22. The access road shown on Dwg No. CTP-20-1142 SK01 Rev D shall be completed to the satisfaction of the LPA prior to the first occupation of the development.

Condition 23

23. The details for the layout as a Reserved Matter, as required by Condition 4, shall make provision for:

- i) a bus turning facility and bus stop within the site as shown in principle in drawing number DE-463-022; and
- ii) a 3m wide pedestrian and cycle link to the western site boundary in the position as shown in principle on Dwg No. 20-1142 SK16. The pedestrian and cycle use shall be made available for public use.

4.29 At the time of writing this proof, County Highways were seeking the inclusion of the following two conditions; however the appellants are not happy to see them included. They are: -

- Prior to occupation of the development, the access of 6.75m width one 2m wide footway and one 3.5m wide footway cycleway, as shown in principle on submitted drawing CTP-20-1142-SK01-D shall be provided, including clear to ground visibility splays at the access with dimensions of 2.4 metres by 160 metres to the west and 2.4 metres by 120 metres, as measured from and along the nearside edge of the carriageway. The access with associated vehicular visibility splays shall retained free of any obstruction at all times thereafter.

- Prior to occupation the highway works as shown in principle in drawing number 20-1142-SK01-D shall be provided and include (but not be limited to) all necessary traffic regulation orders, safety audits, lighting, signing and surfacing and shall. The works include:
 - a. Two bus stops which shall comprise (but not be limited to) the following facilities: shelters; seating; raised kerbs; bus stop markings; poles and flag type signs, timetable casings.
 - b. An uncontrolled crossing with drop kerbs and pedestrian island.
 - c. Initiating the process to extend the 30mph speed limit east to include the access and bus stops and if the process is successful implementing the approved Traffic Regulation Order. Process and implementation to be implemented at no cost to the highway authority.
 - d. A 2m footway from the access eastwards to the proposed bus stop and westwards to join the existing footway on the south of Radwinter Road

4.30 The supplementary highway statement of common ground between Essex County Highways and Rappor (acting on behalf of the developer) provides the detailed explanation as to what further mitigation measures have been secured and agreed.

Pedestrian and cycle movements

- 4.31 The appellant has agreed to seek to deliver a pedestrian and cycle link to the adjacent development to the west by way of a suitably worded planning condition and section 106 obligation to use best endeavours to deliver this link. This would link the site to the land that benefits from Outline Planning Permission under UDC reference UTT/17/2832/OP, and is currently subject of a Reserved Matters Planning Application under UDC reference UTT/21/3565/DFO by Redrow Homes Ltd.
- 4.32 The Redrow site layout includes a shared footway / cycleway of 3m in width on the northern side of the road serving the plots in the northeast corner, closest to the Appeal Site. This shared footway / cycleway includes a spur to the eastern site boundary of the Redrow site. The developer has agreed to deliver a 3m wide shared link up to the western boundary of the site, so as to provide a shared footway / cycleway linked to the Redrow Homes Development and to use to use best endeavours (via a section 106 obligation) to link over third party land. This pedestrian / cycle link is shown in Rappor drawing no. 20-1142 SK16, which is provided **in appendix 7**.
- 4.33 It is evident there is a willingness to provide the link up to and through the Redrow site; but at the point of writing this proof of evidence there is no firm and water tight guarantee. A Grampian condition has been considered but rejected as it could just encourage a ransom strip situation which all parties would like to avoid.

The deliverability of proposed off site highway mitigation at Church Street/High Street

- 4.34 Since the appeal has been lodged the appellants have undertaken more detailed design work with regard to the proposed off-site highway works at the High Street / Church Street junction. This includes the undertaking of a topographical survey to provide an accurate layout of the highway at the junction including the position of buildings, kerbs and street furniture. A ground penetrating radar (GPR) survey has also been undertaken to identify the position of cellars beneath the highway.
- 4.35 A specialist traffic signal design engineer has been engaged to produce a preliminary design of the required traffic signal equipment at the junction. This includes the location of above and below ground equipment including traffic signal poles, signal heads, tactile paving and ducting / cabling.
- 4.36 Both parties also agree these works are now deliverable and will be secured by planning condition, as will the junction improvements at the Thaxted Road / Radwinter Road and Thaxted Road / Peaslands Road junctions. **See appendix 6 for the addendum.**

5 Detailed look at the withdrawal of reasons 1,2,3 and 4 and the Planning Balance

Explanation and justification as to the withdrawal of reasons 1,2,3,and 4 of planning refusal UTT/21/2509

- 5.1 It is quite evident when reflecting on the passage of time leading up to the refusal of this application, that officers both at the Council and especially at Essex County Council Highways considered that suitable mitigation measures for the development were not forthcoming. This then culminated with the Council being put on notice earlier this year by the applicant that an appeal would soon be lodged. Therefore based on the mitigation, then offered, the application was referred to Planning Committee with five reasons for refusal.
- 5.2 As expected and throughout the course of the appeal the parties have worked hard to address and resolve the areas of disagreement. It is worth reflecting on each of these reasons for refusal and setting out what mitigation or measures have been achieved in order to overcome the reasons.

Reason for refusal 1

- 5.3 In relation to reason for refusal 1(a), it has been agreed by the appellant that they will use 'best endeavours' to secure and deliver a pedestrian and cycle link to the adjacent development to the west. This would link the site to the land that benefits from Outline Planning Permission under UDC reference UTT/17/2832/OP, and is currently subject of a Reserved Matters Planning Application under UDC reference UTT/21/3565/DFO by Redrow Homes Ltd.
- 5.4 As per the highways/transport addendum statement of common ground, the Redrow site layout includes a shared footway / cycleway of 3m in width on the northern side of the road serving the plots in the northeast corner, closest to the Appeal Site. This shared footway / cycleway includes a spur to the eastern site boundary of the Redrow site. It is agreed that a 3m wide shared link will be provided up to the western boundary of the site, so as to provide a potential shared footway / cycleway link to the Redrow Homes Development. This pedestrian / cycle link is shown in principle in Rappor drawing no. 20-1142 SK16 **(appendix 7)**.

- 5.5 The appellant further advises in the addendum highways /transport SoCG that discussions with the third party landowner are ongoing to secure a legal agreement that will allow this link to be delivered across the third-party land. As well as a suitably worded planning condition securing this link on the appeal site the appellants have also agreed that a S106 obligation will be included that would require the Appellant to use best endeavours to deliver this pedestrian / cycle link across the third-party land.
- 5.6 Whilst this may not be as secure as all parties would like, it is considered to be the best that can be achieved given the circumstances and state of negotiations. It may be further firmed up by the time of the Inquiry in September. An insistence that the link should be secured by way of a Grampian planning condition could turn the third party 3m strip into a true ‘ransom strip’ situation. The view has been taken that with the planning condition backed by a suitable ‘best endeavours’ wording in the legal agreement, the delivery of this link is more likely to occur and happen.
- 5.7 In respect of reason for refusal 1b, the quality of the key routes for pedestrians and cyclists had not been assessed and limited improvement was proposed for mitigation. The appellant undertook a pedestrian and cycle audit (20th June 2022, issued July 2022). Four routes were assessed to key destinations, Tesco, the High Street, RA Butler School; and Saffron Waldon High School. The highway authority reviewed the audit and determined that a key improvement that should be delivered was the improvement to the crossing of the Tesco’s access for pedestrians. This improvement is to be included in the S106.

5.8 It is important to note that Essex County Highways fully accept and endorse this approach to reason for refusal 1 and it should be noted in paragraph 4.17 of the main statement of common ground that the Council advised that the ‘District Council intends to rely upon the position of the Local Highway Authority in response to reasons for refusal 1 and 2’. The Highway Authority have put in writing that they are fully satisfied that reason 1 has been overcome.

Reason for refusal 2

5.9 The appellants have worked closely with the highway authority which involved more detailed design works being undertaken with regard to the proposed off-site highway works at the High Street / Church Street junction. This included the undertaking of a topographical survey and ground penetrating radar survey to provide an accurate layout of the highway at the junction including the position of buildings, basements, kerbs and street furniture.

5.10 The appellants utilised a specialist traffic signal design engineer to produce a preliminary design of the required traffic signal equipment at the junction. This included the location of above and below ground equipment including traffic signal poles, signal heads, tactile paving and ducting / cabling. This design utilises the additional survey and utilities information as the basis for the design drawings.

- 5.11 This has culminated in a new drawing being produced (drawing no 2206-01 TS-01 Rev B) which both parties are satisfied with.
- 5.12 The deliverability of the off-site highway improvements at the Thaxted Road / Radwinter Road and Thaxted Road / Peaslands Road junctions has previously been agreed in principle.
- 5.13 In addition to the sustainable transport measures previously agreed (as set out in the original SoCG) the appellants are now offering a financial contribution to a 'Town wide car club' to be operated by UDC. This will be secured by the section 106 legal agreement. Also, it has previously been agreed that provision of a publicly accessible car club parking space with Electric Vehicle Charging Point within the development will be secured via planning condition.
- 5.14 So the totality includes capacity enhancements, travel plan measures, including contribution to the car club (which is a new addition), bus service contribution, crossing improvement at the Tesco access (new addition), extension of the 30mph speed limit to include the new bus stops and access. With all these measures combined, both the County Highway Authority and the Council consider that (subject to condition and legal agreement) this reason for refusal has been properly and suitably addressed.

Reason for refusal 3

5.15 As per the statement of case a letter was received from Place Services dated 25 May 2022, providing revised comments on the application. The letter advised there were now no objections subject to securing biodiversity mitigation and enhancement measures by conditions and possibly by s.106 planning obligation. The consultee further advised, “we are now satisfied that there is sufficient ecological information available for determination of this application. This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.”

5.16 The appellants have worked with the Council to ensure that the relevant planning conditions are included to satisfy the requirements of the consultee.

Reason for refusal 4

5.17 A series of measures as identified in the paragraphs above have led the Council and the County Highways Authority to conclude that reason 4 can no longer be defended, and because on balance what is now being promoted (and secured by condition and section 106 legal agreement) does promote sustainable patterns of transport and responds positively to local and national goals to reduce carbon emissions.

The Planning Balance

5.18 Uttlesford District Council does not have a 5 year housing land supply; which means that some of the planning policies are to be treated as out of date for the purposes of the NPPF 2021, whereas some policies remain broadly consistent with the NPPF and should be given due weight in the appeal process. Land such as this (which is designated countryside and safeguarded for minerals) must be considered, until, such time that a new local plan and allocated sites are in place and development can be planned. We know that the new local plan is at the very early stages of inception and that there will be nothing in place until at least 2024/2025, at the very earliest.

Benefits of the proposal

- 5.19 The proposed development would over the longer period deliver a proportion of the market and affordable housing that is likely to be required to meet the housing need of the district.
- 5.20 The benefits of the market and affordable housing should be **given substantial weight** in favour of the grant of planning permission. The site does, also, have the potential to deliver housing within the next 5 years, subject to additional approvals. The early delivery of some of the housing attracts **substantial weight** in favour of a grant of planning permission.

5.21 The development would generate economic benefits both during construction and post occupation; this would include job creation and an increase in potential expenditure in the area on goods and services. These economic benefits should also be given **moderate weight**.

5.22 The full highways mitigation package and agreed measures include:-

- Works to site access junction, with provision of priority junction with ghost island right-turning lane on Radwinter Road
- New footway link on Radwinter Road
- Pedestrian / Cycle link to adjacent development
- Safeguarding land for a future relief road
- Offsite highway works
- Improved pedestrian crossing at Tesco Site Access Junction
- Bus stops on Radwinter Road
- Bus turning area
- Bus service contribution
- Car club contribution and car club parking space
- Travel plan with associated monitoring fee
- Electric vehicle charging points

5.23 Whilst the mitigation being offered in terms of the westerly cycle /pedestrian link is not ideal or fully secured, it is an improvement and the Council takes the view that it will, on balance most likely lead to the delivery of the westerly cycle/pedestrian link though the Council would concede there can be no certainty there.

5.24 However given the Council's lack of a 5YHLS, the Council accepts that the improvements to the highway mitigation package (identified above) mean that the balance now lies in favour of a grant planning permission, as the tilted balance is no longer clearly and demonstrably rebutted.

5.25 Other infrastructure requirements secured, such as public open space, a health care contribution, custom built housing (5% of the number of market dwellings) as well as education and library contributions mitigate the development's own impacts.

5.26 **Modest weight** should be given to the potential biodiversity enhancements that could be secured by the development by way of a suitably worded planning condition.

Other harm arising from the proposal

5.27 The development would result in developing 'countryside' outside of an identified settlement. The relevant policy (S7) expects the countryside to be protected for its own sake only allowing development which needs to take place there or is appropriate to a rural area.

5.28 The development would result in the loss of approximately 25ha of agricultural land and this should be given **moderate weight** against the grant of planning permission.

5.29 The site is safeguarded for minerals and this matter also attracts **moderate weight** against the grant of planning permission.

Final Balancing exercise

5.30 The Council acknowledges that its overall position has dramatically changed since the submission of the Council's statement of case. Essex County Highway Authority now fully accepts that the package of highway mitigation measures to be secured by legal agreement and planning conditions as set out in the agreed addendum to the highways statement of common ground addresses reasons for refusal 1,2 and 4.

5.31 It is important to note that the tilted balance is clearly in play and in the Council's view is decisive in respect of this appeal. The County Highway authority is now fully satisfied that reasons 1 and 2 of the decision have been fully addressed and overcome (subject to condition and subject to section 106 provisions). As set out above reason 3 (ecology) has been overcome with measures to be agreed by planning condition and reason for refusal 4 is not defensible in light of the package of mitigation measures now secured.

5.32 When combined with other matters secured by way of a section 106 legal agreement and planning conditions, as well as with a lack of a 5 year housing land supply, the balance clearly weighs in favour of granting planning permission for this outline scheme for 233 residential dwellings.