

# **SUMMARY 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.

## **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 five reasons, which can be found in full in main proof of evidence
- 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.
- 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.
- 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 The policy context is set out in full in my proof of evidence.

### **4 Evidence on the reasons for refusal as matters now stand**

4.1 The evidence pertaining to each reason for refusal as matters now stand is contained in my main proof of evidence.

**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

- 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 (20<sup>th</sup> 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.