



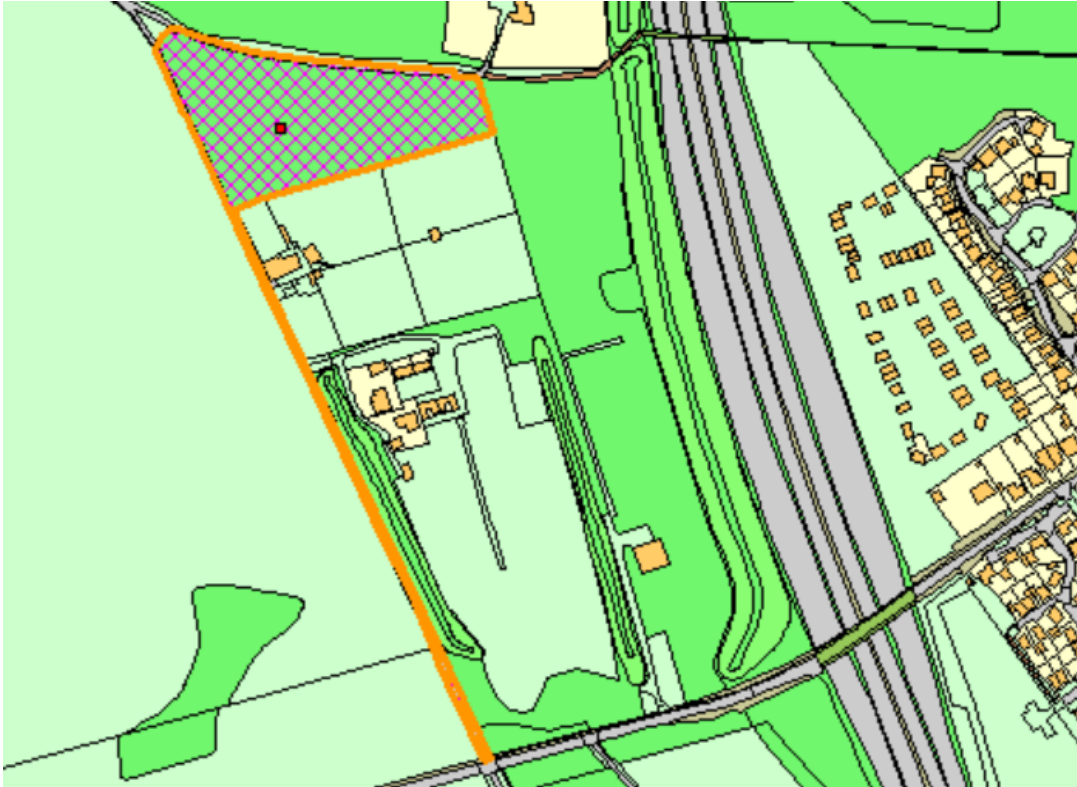
ITEM NUMBER: 13

PLANNING COMMITTEE DATE: 11 December 2024

REFERENCE NUMBER: UTT/24/2359/FUL

LOCATION: Land To The East Of May Walk
Elsenham Road
Stansted
Essex

SITE LOCATION PLAN:



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Organisation: Uttlesford District Council Date: 18 November 2024

PROPOSAL: Reshaping and reduction of existing earth bunds, erection of boundary fencing with gates, planting boundary hedging, completion of bunding work previously halted, landscaping of bunds, erection of a stable block, preparation of grazing paddock.

APPLICANT: Messrs Baker, Baker, Baker, Wisbey & Twigg

AGENT: Mr V Ranger (Ranger Management & Design Services Ltd)

EXPIRY DATE: 27 December 2024

EOT EXPIRY DATE: -

CASE OFFICER: Mr Avgerinos Vlachos

NOTATION: Outside Development Limits.
Road Classification (Elsenham Road/Stansted Road – B Road).
Within 2km of SSSI.
Oil Pipeline.
Within 6km of Stansted Airport.
Within 100m of Ancient Woodland (Alsa Wood, Stansted).
Within 100m of Local Wildlife Site (Alsa Wood, Stansted).
Within 250m of Local Wildlife Site (Aubrey Buxton Reserve).
Public Right of Way (May Walk Bridleway – West).
Public Right of Way (Footpath – North).

REASON THIS APPLICATION IS ON THE AGENDA: Major application.

1. EXECUTIVE SUMMARY

1.1 This a full planning application for the reshaping and reduction of existing earth bunds, erection of boundary fencing with gates, planting boundary hedging, completion of bunding work previously halted, landscaping of bunds, erection of a stable block and preparation of grazing paddock. The site is outside development limits between Elsenham and Stansted Mountfitchet within the open countryside.

1.2 The existing earth bunds are unauthorised development, and an appeal was dismissed in January 2023 (UTT/22/1488/FUL) for the retrospective ‘formation of earth bunds and timber gates to secure land’ on a smaller version of the current site. This appeal decision is a material consideration

of significant weight to ensure consistency in decision-making. The main differences with UTT/22/1488/FUL are explained in paragraph 14.3.4 of this report.

- 1.3** The proposed stable block, paddock, timber gates and fencing/hedging would be appropriate within the rural setting of the location. However, the proposed earth bunds (which would slightly reduce in size the existing ones) would not restore the 'open and natural edge' of the site as they would not remove the 'stark and unnatural' appearance of the earth bunds. The proposals would still (spatially and physically) separate the site from the open fields to the west and the protected woodland to the north, causing significant harm to the character and appearance of the open countryside. Landscaping measures cannot offer adequate mitigation in the short term and the security of the site can be guaranteed by the proposed post and rail fencing and hedging, as suggested by the Inspector.
- 1.4** The application has also not provided sufficient ecological information on European protected species and mandatory biodiversity net gain.
- 1.5** The planning balance would be against the development. Consequently, when assessed against the policies in the NPPF taken as a whole, and as there are no other material considerations indicating otherwise, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. The proposal would **not** be sustainable development for which paragraph 11(d) of the NPPF indicates a presumption in favour (given the significant harm to the character and appearance of the countryside).

2. RECOMMENDATION

That the Strategic Director of Planning be authorised to REFUSE permission for the reasons set out in section 17 of this report.

3. SITE LOCATION AND DESCRIPTION:

- 3.1** The application site comprises undeveloped, greenfield land without built form, located outside development limits within the countryside between Elsenham and Stansted Mountfitchet. The site includes sizeable earth bunds (around most of its perimeter) and solid plywood gates and timber posts (near its north-west corner) both of which have not been lawfully implemented.
- 3.2** The site is located to the east of May Walk, a public bridleway that connects the B1051 to the south with a public footpath along the edge of Alsa Wood to the north of the site. To the west is a large open field that borders May Walk without any boundary treatment. The field provides extensive views across the countryside to Stansted Mountfitchet. Further to the west is the woodland of Aubrey Buxton Nature Reserve. To the

north is Alsa Wood containing a sizeable area of trees either side of the M11. To the east is scrubland and the embankment screening the M11. To the south is May Tree Farm and beyond that Eastfield Stables (both including converted dwellings).

3.3 The boundary between May Tree Farm and May Walk is a mixture of hedging and conifers planted at the same level as the bridleway along with post and rail fencing. For the remainder of the boundary along May Walk and almost as far as the B1051 there is an earth bund implemented in the 1990s and mature planting. The overall area contains a 'very rural' character with only converted dwellings of varying architectural styles, sizes, ages and materials, including several listed buildings.

4. PROPOSAL

4.1 This a full planning application for the reshaping and reduction of existing earth bunds, erection of boundary fencing with gates, planting boundary hedging, completion of bunding work previously halted, landscaping of bunds, erection of a stable block and preparation of grazing paddock. The application does not propose any housing or affordable housing units.

4.2 The application includes the following supporting documents:

- Application form
- Biodiversity checklist
- Arboricultural impact assessment
- Biodiversity statement
- Biodiversity statement appendix
- BNG condition assessment
- BNG metric
- Design and access statement
- Planning statement
- Planning statement Appendix A
- Planning statement Appendix B
- Preliminary ecological appraisal
- SUDS proforma
- Biodiversity net gain report.

5. ENVIRONMENTAL IMPACT ASSESSMENT

5.1 The development does not constitute 'EIA development' for the purposes of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

6. RELEVANT SITE HISTORY

Reference	Proposal	Decision
UTT/23/0234/PA	Erection of a stable block, erection of stock fencing,	Closed (10.07.2023).

	formation of a parking area, retention of earth bunds.	
UTT/22/1488/FUL	Section 73a retrospective application for the formation of earth bunds and erection of timber gates to secure land.	Appeal dismissed (10.01.2023).

7. **PRE-APPLICATION ADVICE AND/OR COMMUNITY CONSULTATION**

7.1 Paragraph 39 of the NPPF states that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community.

7.2 A pre-application (UTT/23/0234/PA) discussion has been held with officers of Uttlesford District Council prior to the submission of the current application. The pre-app concluded that “*The principle of the development would not be supported in a formal application. It is recommended that the earth bunds and gates are removed and the site reverts to its previous, open and verdant appearance*”. No statement of community involvement has been submitted prior to the submission of this application but interested parties were consulted as necessary and their comments considered as part of the planning assessment below.

8. **SUMMARY OF STATUTORY CONSULTEE RESPONSES**

8.1 **Highway Authority**

8.1.1 Objections (see full response in **Appendix 1**):

8.1.2 From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

1. Insufficient information is provided within the application to demonstrate to the satisfaction of this Authority that the impact on the Public Rights of Way network caused by this proposal will not have unacceptable consequences in terms of highway safety for all public right of way users, more specifically:
 - i. As far as can be determined from the submitted information the applicant has not obtained the definitive widths and routes of the Public Rights of Way affected and therefore it is unclear if Public Right of Way Footpath no. 44 (Stansted Mountfitchet) and Public Right of Way Bridleway no. 25 (Stansted Mountfitchet) are obstructed by the proposal.
 - ii. No information has been submitted for the specification of the unauthorised earth bunds in terms of gradient and the requirement for retaining structures.
 - iii. No information has been submitted on drainage.
 - iv. No information has been submitted for the purpose of the service strip and whether its location is obstructing Public Right of Way

Footpath no. 44 (Stansted Mountfitchet) and Public Right of Way Bridleway no. 25 (Stansted Mountfitchet).
v. Public Right of Way Footpath no. 44 (Stansted Mountfitchet) and Public Right of Way Bridleway no. 25 (Stansted Mountfitchet) have not been acknowledged on all of the submitted drawings.

8.1.3 Therefore, this proposal is contrary to the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, and Uttlesford Local Plan Policy GEN1.

8.2 Local Flood Authority

8.2.1 Refrained from commenting (see full response in **Appendix 2**).

9. TOWN COUNCIL COMMENTS

9.1 The following comments were received:

- **Object:**
 - The access to the north should not be permitted; to protect the footpath, a suitable access can be provided along the bridleway.
 - There should be no development prior to the site being returned to its previous state in accordance with your enforcement notice.

10. CONSULTEE RESPONSES

10.1 UDC Environmental Health

10.1.1 No objections unconditionally.

10.2 Place Services (Ecology)

10.2.1 Holding objection due to insufficient ecological information on European Protected Species (Great Crested Newt and Hazel Dormouse) and mandatory biodiversity net gain.

10.3 Cadent Gas Ltd

10.3.1 No objections subject to informatives.

10.4 Exolum Pipeline System Ltd (Fisher German LLP)

10.4.1 No objections subject to informatives; the developer should not undertake any work or activity without first contacting Exolum for advice and, if required, a Works Consent.

10.5 Gigaclear Ltd

10.5.1 No objections subject to informatives.

10.6 UK Power Networks Ltd

10.6.1 No objections subject to informatives.

11. REPRESENTATIONS

11.1 A site notice was displayed near the site and notification letters were sent to nearby properties. The application was also advertised in the local press.

11.2 Support

11.2.1 The following comments were received:

- Immediate adjoining neighbour not objecting.
- Intention to secure the land and get it occupied.
- Boundary treatment in line with boundary treatment of May Tree Farm.
- Not conflict with the character of the area.

11.3 Object

11.3.1 The following comments were received:

- Enforcement notice in place for the removal of bunds and reinstatement of the land.
- No need for stables in this location.
- Other stables in the location have been converted to houses due to lack of demand.
- Incorrect information.
- Gate in location A is situated along public footpath / applicants have no vehicular rights over it.
- Temporary hard standing.
- Unauthorised bund and gate in location B.
- Fencing far more appropriate to secure the land than bunding.
- Fencing would allow PROW users to see the horses grazing.
- Previous bunding not in keeping with the area.
- May Walk is entirely open with vistas along the valley.
- Concerns over protected and priority species, designated sites, important habitats and biodiversity.
- Popular footpaths.
- Alsa Wood is ancient woodland.
- Inappropriate ecological survey.
- Redistribution of imported soil will change the composition of soil on the land.
- Tree damages when the bunding was done.
- Stables at the wrong end of the plot where there is no vehicular access.
- Appeal dismissed.
- Attempt to avoid or delay remediation from previous refusals.
- Remediation of the land should be enforced without delay.

- Vehicular right of access is only from the bridleway.
- Fear of precedent.
- No need for the bunds if fence and hedge is proposed.
- Ground level of the site higher than surrounding land due to importing soil.
- Native species hedge required, not leylandii.
- Water run-off concerns.
- Manure heap / contamination concerns.
- Pond/spring.
- Habitat degradation on or after 2020.
- Bunds eye sore and out of character in the open countryside.
- Bunds do not keep animals in or out neither eliminate illegal incursion.
- Highway safety concerns.

11.4 Comment

11.4.1 All material planning considerations raised by third parties have been thoroughly reviewed when considering this application. Land ownership issues and issues around the deliverability of a planning permission are civil matters beyond planning.

12. MATERIAL CONSIDERATIONS

12.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, The Development Plan and all other material considerations identified in the “Considerations and Assessments” section of the report. The determination must be made in accordance with the plan unless material considerations indicate otherwise.

12.2 Section 70(2) of the Town and Country Planning Act requires the local planning authority in dealing with a planning application, to have regard to

- a) The provisions of the development plan, so far as material to the application:
 - (aza) a post-examination draft neighbourhood development plan, so far as material to the application,
- b) any local finance considerations, so far as material to the application, and
- c) any other material considerations.

12.3 The Development Plan

12.3.1 Essex Minerals Local Plan (adopted July 2014)
 Essex and Southend-on-Sea Waste Local Plan (adopted July 2017)
 Uttlesford District Local Plan (adopted 2005)
 Uttlesford Design Code (adopted July 2024)
 Felsted Neighbourhood Plan (made February 2020)
 Great Dunmow Neighbourhood Plan (made December 2016)

Newport and Quendon and Rickling Neighbourhood Plan (made June 2021)

Thaxted Neighbourhood Plan (made February 2019)

Stebbing Neighbourhood Plan (made July 2022)

Saffron Walden Neighbourhood Plan (made October 2022)

Ashdon Neighbourhood Plan (made December 2022)

Great & Little Chesterford Neighbourhood Plan (made February 2023)

13. POLICY

13.1 National Policies

13.1.1 National Planning Policy Framework (December 2023).

13.2 Uttlesford District Local Plan (2005)

13.2.1	S7	The Countryside
	GEN1	Access
	GEN2	Design
	GEN3	Flood Protection
	GEN4	Good Neighbourliness
	GEN5	Light Pollution
	GEN7	Nature Conservation
	GEN8	Vehicle Parking Standards
	ENV3	Open Space and Trees
	ENV4	Ancient Monuments and Sites of Archaeological Importance
	ENV5	Protection of Agricultural Land
	ENV8	Other Landscape Elements of Importance for Nature Conservation
	ENV11	Noise Generators
	ENV12	Protection of Water Resources
	ENV13	Exposure to Poor Air Quality
	ENV14	Contaminated land

13.3 Neighbourhood Plan

13.3.1 There is not a 'made' Neighbourhood Plan for the area.

13.4 Supplementary Planning Document or Guidance

13.4.1 Essex County Council Parking Standards (2009)
Essex Design Guide
Uttlesford Interim Climate Change Planning Policy (2021)
Supplementary Planning Document – Uttlesford District-Wide Design Code (2024).

14. CONSIDERATIONS AND ASSESSMENT

14.1 The issues to consider in the determination of this application are:

- 14.2 A Principle of development / Character and appearance (S7, GEN2, ENV3, ENV5, SPD Uttlesford District-Wide Design Code, Essex Design Guide, NPPF)
)
 B Residential amenity (GEN2, GEN4, GEN5, ENV11, NPPF)
)
 C Access and parking (GEN1, GEN8, parking standards, NPPF)
)
 D Ecology (GEN7, ENV8, NPPF)
)
 E Contamination (ENV14, ENV12, ENV13, NPPF)
)
 F Archaeology (ENV4, NPPF)
)
 G Flood risk and drainage (GEN3, NPPF)
)
 H Other matters
)

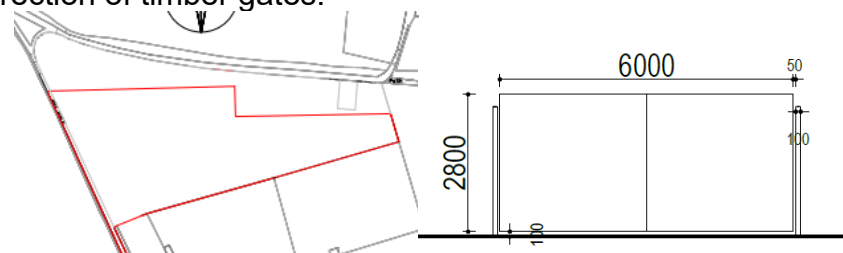
14.3 A) Principle of development / Character and appearance (S7, GEN2, ENV3, ENV5, SPD Uttlesford District-Wide Design Code, Essex Design Guide, NPPF)

14.3.1 Emerging local plan:

Due to its stage of preparation and that the proposed strategy has not been tested at examination, the emerging local plan is afforded **limited** weight.

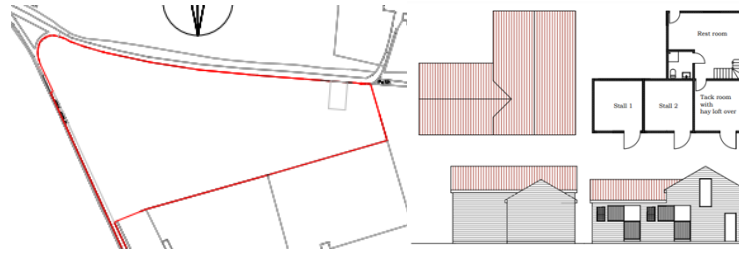
14.3.2 Background:

An appeal¹ was dismissed in January 2023 for the retrospective 'formation of earth bunds and timber gates to secure land' on a smaller version of the current application site (see first line of images). Pre-application advice² in July 2023 for the 'erection of a stable block, erection of stock fencing, formation of a parking area, retention of earth bunds' (see second line of images) concluded that "*The principle of the development would not be supported in a formal application. It is recommended that the earth bunds and gates are removed and the site reverts to its previous, open and verdant appearance*". An enforcement notice was served in September 2023 for the breach of planning control for the unauthorised importation of waste materials to create earth bunds and erection of timber gates.



¹ APP/C1570/W/22/3305178 (LPA reference number UTT/22/1488/FUL).

² LPA reference number UTT/23/0234/PA.



14.3.3 The appeal decision for the retrospective earth bunds/gates is a material consideration of **significant** weight and any departure from that decision would require appropriate justification, in accordance with case law³ for consistency in decision-making. The pre-app was informal advice to the applicants, which clarified the council's position about the retrospective scheme in light of the above appeal decision. Despite the comments from nearby residents, the enforcement notice will not be part of the planning assessment below as the application must be considered on its own merits independently of enforcement issues (and shall be given zero weight when determining the application).

- 14.3.4** The main differences with the dismissed appeal scheme include:
- Bigger application site (with the earth bund on north boundary).
 - Erection of stables.
 - Reshaping and reducing the height of the earth bunds:
 - In comparison with the level of May Walk or the public footpath to the north:
 - From 2.83 to 1.83 metres (north boundary)
 - From 2.31 to 1.31 metres (west boundary).
 - In comparison with the level of the application site:
 - From 2.4 to 1.4 metres (north boundary)
 - From 1.69 to 0.69 metres (west boundary).
 - Replacement of the solid plywood gates and timber posts (height 2.6 metres) with post and rail fencing and mesh stock wire (height 1.5 metres) and hedging to the back (height up to 2 metres).

14.3.5 Location:

The proposed domestic stable block has been sufficiently reduced in size and massing in comparison to the pre-app scheme and (despite interested parties questioning its need) is an appropriate, low-key building for the enjoyment of the applicants that would be common within a countryside location, in compliance with policy S7 of the Local Plan, and paragraph 180(b) of the NPPF. The same applies for the proposed paddock and timber gates⁴. However, this is not the case with the earth bunds, as explained below.

³ *North Wiltshire District Council v Secretary of State for the Environment and Clover [1993] 65 P&CR 137.*

Dunster Properties Ltd v the First Secretary of State & Anor [2007] EWCA Civ 236.

R. (Davison) v Elmbridge Borough Council [2019] EWHC 1409 (Admin).

⁴ Although it is not clear why a gate that would be 6.8 metres wide would be necessary for a domestic use, when the other gate is 2.4 metres wide.

14.3.6 Character and appearance:

The Inspector⁵ determined that the “*character and appearance of the area surrounding the site is very rural*” and that before the retrospective operations the site was open scrub or pastureland; the site would have had an ‘open and natural edge’ in keeping with the surrounding area and would not have had any significant boundary treatment or bunding along its boundaries (except for some trees near the public footpath to the north). The unauthorised bunding and gates “*present a stark edge and barrier to May Walk*” and “*look stark and unnatural*”, causing **significant** harm to the character and appearance of the countryside⁶.

14.3.7 To resolve the above, the application proposes to reshape and reduce the height of the earth bunds (see *paragraph 14.3.4* above and the Proposed Site Plan). However, the proposed changes would reduce the earth bunds by no more than 1 metre in height, leaving them at 1.83 metres on the north boundary and at 1.31 metres on the west boundary with May Walk. These minimal changes would not restore the ‘open and natural edge’ of the site as they would not remove the ‘stark and unnatural’ appearance of the earth bunds as seen from the public realm. The proposals would still (spatially and physically) separate the site from the open fields to the west and the protected woodland to the north. Instead of retuning the land to its previous state, the proposals would harm the visual amenity of the open countryside.

14.3.8 The development would cause **significant** harm to the character and appearance of the area. Therefore, it would not accord with policy S7 of the Local Plan, which only permits development in the countryside if its appearance protects or enhances the countryside or there are special reasons why the development needs to be there in the form proposed. It would also not accord with policy GEN2(b) which, amongst other things, requires development to safeguard important environmental features and help reduce the visual impact of new buildings or structures. The development would also be contrary to paragraph 180(b) of the NPPF, which requires that decisions should contribute to and enhance the natural and local environment by (b) recognising the intrinsic character and beauty of the countryside.

14.3.9 The development would also conflict with the SPD Uttlesford District-Wide Design Code (July 2024) that is now part of the development plan. Specifically, it conflicts with code C1.1C that requires proposals for new development to demonstrate an understanding of the key contextual features, such as topography, landscape and boundary features, as well as with code ID1.1C that requires proposals to demonstrate a relationship to their area’s local character.

⁵ APP/C1570/W/22/3305178 (UTT/22/1488/FUL), paragraphs 12 – 14.

⁶ APP/C1570/W/22/3305178 (UTT/22/1488/FUL), paragraphs, 14, 15, 17.

- 14.3.10** The application asserts that the earth bunds would secure the site “*for the keeping of horses and the erection of stables*”⁷ as “*The feeling of insecurity still exists and will be heightened if planning permission is given for the equestrian use of the site*”⁸. However, the Inspector stated that “*it is not clear why better security could not be achieved with more sympathetic boundary treatments such as post and rail fencing or a native hedgerow, which have been used at May Tree Farm next door*”⁹. The application proposes post and rail fencing and hedging¹⁰ on the perimeter of the site (apart from the south boundary). Therefore, it is not clear why earth bunds would be required and why post and rail fencing and hedging would not be enough to secure the land, as the Inspector suggested in the recent appeal decision.
- 14.3.11** The Inspector referred to securing the land from trespassing and fly tipping with more sympathetic boundary treatments that are indeed part of the proposals in the current application and would not cause significant harm to the character and appearance of the countryside like the earth bunds. On the contrary, such boundary treatments would preserve the countryside character and appearance of the area, as they are common features in such a setting. In addition, a clear link between the earth bunds and the keeping of animals has not been established, as security would be guaranteed by the proposed fencing and hedging. Therefore, it has not been demonstrated that the development is necessary for this countryside location. Additional security measures, such as CCTV cameras, have not been considered.
- 14.3.12** Turning to landscaping measures, the Inspector confirmed that “*it is likely to take many years to establish and until then, the bunding would look stark and unnatural, resulting in harm to the character and appearance of the area*”¹¹. Therefore, although a suitable landscaping scheme could be conditioned, in the absence of mature planting, the bunds would significantly harm the character and appearance of the countryside.
- 14.3.13** Other material considerations:
The Inspector accepted that in 1990 bunding was approved in Eastfield Stables (UTT/1105/90) after seemingly establishing a clear link with the keeping of animals (including rabbits), however, he found that today “*The bunding along Eastfield Stables is a well-established green edge to the bridleway that does not detract from the general character and appearance of the area*”¹². In any case, this decision (UTT/1105/90) would attract **very limited** weight today as it pre-empts the NPPF and the current Local Plan.

⁷ Planning Statement, paragraph 3.6(d).

⁸ Planning Statement, paragraph 3.3.

⁹ APP/C1570/W/22/3305178 (UTT/22/1488/FUL), paragraph 17.

¹⁰ The Proposed Site Plan has failed to show the proposed post and rail fencing and hedging on the legend of the drawing, and as such, their position is assumed by the Typical Boundary Sections drawing and the Boundary Fence and Gates drawing.

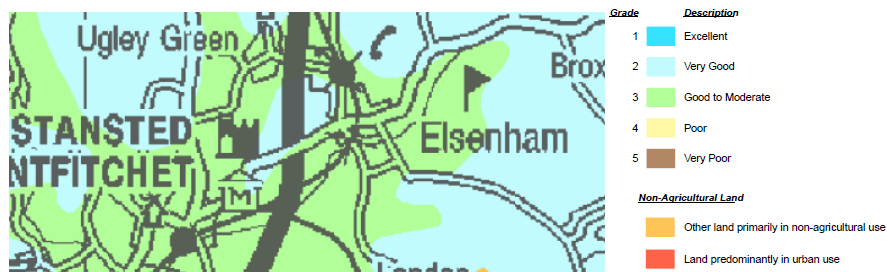
¹¹ APP/C1570/W/22/3305178 (UTT/22/1488/FUL), paragraph 15.

¹² APP/C1570/W/22/3305178 (UTT/22/1488/FUL), paragraphs 11 – 12.

14.3.14 Notwithstanding the concerns raised by interested parties for potential precedent of such development in the area and the allegations that the application is delaying the enforcement investigation, these are beyond the scope of planning and are not considered as part of the planning assessment as material considerations. The parish council also noted that there should be no development prior to the site being returned to its previous state in accordance with the enforcement notice; however, this is not what the development is proposing. The application must be considered on its own merits.

14.3.15 Agricultural land:

The site comprises Grade 2 ('Very Good' quality) agricultural land, being part of the district's best and most versatile agricultural land (BMV). The loss of BMV land would conflict with policy ENV5 of the Local Plan but such land is plentiful within the district and its loss would not warrant a reason for refusal.



14.3.16 Conclusion:

The earth bunds, even though reduced in size, would cause significant harm to the character and appearance of the countryside and their principle is not acceptable.

14.4 B) Residential amenity (GEN2, GEN4, GEN5, ENV11, NPPF)

14.4.1 The proposals would not lead to loss of private amenity space for any neighbouring occupiers.

14.4.2 In terms of noise, odours, dust, vibrations, light pollution and other disturbances, Environmental Health raised **no objections** unconditionally to safeguard residential amenities.

14.4.3 After applying the design and remoteness tests (see Essex Design Guide) and the 45-degree tests, the following conclusions are drawn for the impact of the proposed development to the residential amenity of the neighbouring occupiers in terms of potential material overshadowing, overlooking (actual or perceived) and overbearing effects.

14.4.4 The proposal would not materially harm residential amenities of neighbouring residents and would comply with policies GEN2, GEN4, GEN5, ENV11, and the NPPF.

14.5 C) Access and parking (GEN1, GEN8, parking standards, NPPF)

14.5.1 From a highway and transportation perspective, following review of the submitted information and drawings, the Highway Authority raised **objections** in the interests of highway safety, as the development would fail to accord with the Essex County Council Supplementary Guidance – Development Management Policies (Feb 2011), policy GEN1 of the Local Plan, and paragraphs 115, 114(d), 116(c) of the NPPF. The Highway Authority wrote:

1. Insufficient information is provided within the application to demonstrate to the satisfaction of the Highway Authority that the impact on the Public Rights of Way network caused by this proposal will not have unacceptable consequences in terms of highway safety for all public right of way users, more specifically:
 - i. As far as can be determined from the submitted information the applicant has not obtained the definitive widths and routes of the Public Rights of Way affected and therefore it is unclear if Public Right of Way Footpath no. 44 (Stansted Mountfitchet) and Public Right of Way Bridleway no. 25 (Stansted Mountfitchet) are obstructed by the proposal.
 - ii. No information has been submitted for the specification of the unauthorised earth bunds in terms of gradient and the requirement for retaining structures.
 - iii. No information has been submitted on drainage.
 - iv. No information has been submitted for the purpose of the service strip and whether its location is obstructing Public Right of Way Footpath no. 44 (Stansted Mountfitchet) and Public Right of Way Bridleway no. 25 (Stansted Mountfitchet).
 - v. Public Right of Way Footpath no. 44 (Stansted Mountfitchet) and Public Right of Way Bridleway no. 25 (Stansted Mountfitchet) have not been acknowledged on all of the submitted drawings.

14.5.2 Highways did not provide comments for UTT/22/1488/FUL, however, the proposals are now different as two gates are proposed onto the public highways (i.e. the public bridleway May Walk and the public footpath to the north). Notwithstanding the comments from interested parties that the applicants do not benefit from a right of way for vehicles using the gate and parking area near the public footpath and the notes of the Highway Authority, this would not warrant a reason for refusal per se. If planning permission would be granted, it would not necessarily mean that it could be lawfully implemented. Similarly, the assessment above that showed no countryside harm from the proposed gates would not necessarily mean that they can be used by vehicular traffic if the applicants do not have legal rights to drive onto the footpath. However, planning matters should be distinguished from legal ones.

14.5.3 There is ample space within the site to accommodate the required parking provision for the proposed domestic stables and provide appropriate turning areas to allow for cars to leave the site in a forward gear. Parking arrangements would meet the Uttlesford Residential Parking Standards

(2013), the Essex County Council Parking Standards (2009), and policy GEN8 of the Local Plan.

14.6 D) Ecology (GEN7, ENV8, NPPF)

14.6.1 Place Services Ecology, following review of the submitted information, raised **objections** due to insufficient ecological information on European Protected Species (Great Crested Newt and Hazel Dormouse) and mandatory biodiversity net gain. The development would fail to comply with paragraphs 43, 180(d) and 186 of the NPPF, and policies GEN7, ENV8 of the Local Plan.

14.6.2 Place Services Ecology reported that there is insufficient ecological information for the determination of this application given the potential impact on Great Crested Newts and Hazel Dormice and precautionary method statements or other surveys have not been submitted. This information is required prior to determination to allow the LPA to have certainty of likely impacts on European protected species. The development would also fail to adhere to Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006, which applies a duty on public authorities to conserve biodiversity.

14.6.3 Reason for refusal 2 in UTT/22/1488/FUL was similar and it was upheld by the Inspector¹³.

14.6.4 Biodiversity Net Gain duty:

Biodiversity Net Gain (BNG) is a statutory requirement set out under Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990. Paragraph 13 of Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990 states that every planning permission granted for the development of land in England shall be deemed to have been granted subject to the condition that the development may not be begun unless (a) a biodiversity gain plan has been submitted to the planning authority (see paragraph 14), and (b) the LPA has approved the plan. The development would **not** be exempt from BNG as none of the exemptions in the guidance would apply.

14.6.5 Place Services Ecology, following review of the submitted Statutory Biodiversity Metric and Biodiversity Net Gain report, confirmed that appropriate information has **not** been provided prior to determination because habitat degradation (loss or impact to habitats) has occurred on site in 2022; neighbouring parties also confirm this in representations. Therefore, as habitat degradation has occurred, the application must have provided the following in line with the guidance¹⁴:

- a statement setting out that these degradation activities have been carried out;

¹³ APP/C1570/W/22/3305178 (UTT/22/1488/FUL), paragraphs 20 – 24.

¹⁴ Planning Practice Guidance: Biodiversity Net Gain – Paragraph: 011 Reference ID: 74-011-20240214.

- confirmation of the date immediately before these activities were carried out;
- the pre-development biodiversity value of the site on this date;
- the completed metric calculation tool showing the calculations, and
- any available supporting evidence of this.

14.6.6 The application tries to justify these omissions¹⁵ but Place Services Ecology reported that the habitat would not have been ‘rabbit-grazed (modified) grassland’ and that from historic aerial photographs and from the information provided in the Preliminary Ecological Appraisal, it is more likely that the habitat would have been ‘other neutral grassland’ with at least two scattered trees of >7.5cm diameter. The pre-development baseline value of the site has not been calculated correctly.

14.7 E) Contamination (ENV14, ENV12, ENV13, NPPF)

14.7.1 Environmental Health raised **no objections** unconditionally to protect human health and the environment. The proposal would accord with policies ENV14, ENV12, ENV13 of the Local Plan, and the NPPF.

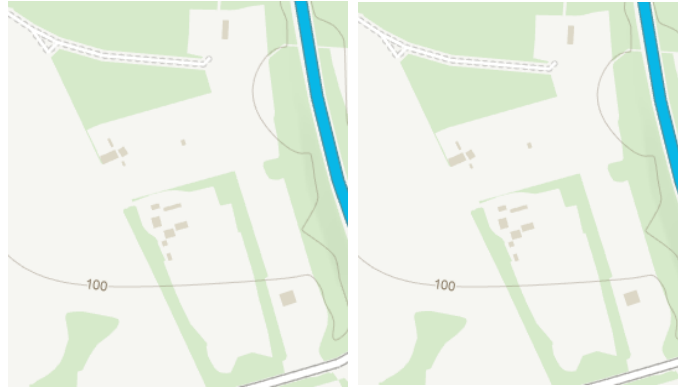
14.8 F) Archaeology (ENV4, NPPF)

14.8.1 Place Services Archaeology was not consulted given that the site is not within an area of potentially sensitive archaeological deposits or within an archaeological site. The proposal would accord with policy ENV4 of the Local Plan, and the NPPF.

14.9 G) Flood risk and drainage (GEN3, NPPF)

14.9.1 The site falls within Flood Zone 1; footnote 59 in paragraph 173 of the NPPF that requires a site-specific Flood Risk Assessment (FRA) applies on this occasion as the development involves a site of 1 hectare or more. Therefore, the development would conflict with paragraph 173 of the NPPF, as an FRA has not been submitted. However, notwithstanding the above policy conflict, the Essex County Council (Local Flood Authority) requested the total hardstanding area that will be created by the development and then refrained from commenting further as it classed the development as minor without sufficient scope to provide sustainable urban drainage systems on site. Given the proposed domestic stables without any vulnerable uses, such as new dwellings, the lack of an FRA would not warrant a reason for refusal on this occasion. The Environment Agency was not consulted for this application. The following images show the extent of flooding from rivers (fluvial flooding) and from surface water (pluvial flooding). The proposal would also conflict with policy GEN3 of the Local Plan, however, this is again would not be a reason for refusal for the same reasons as above.

¹⁵ Biodiversity Net Gain report, paragraphs 4.1.10 – 4.1.12.



14.10 H) Other matters

- 14.10.1** Fisher German LLP (on behalf of the Exolum Pipeline System) confirmed they own apparatus in the vicinity that may be affected by the proposals. Exolum will be able to provide guidance on the required procedures for entering a Works Consent and provide confirmation on permitted development and intrusive activities. To reiterate, the applicants should not undertake any work or activity without first contacting Exolum for advice and, if required, a Works Consent.
- 14.10.2** Gigaclear Ltd, Cadent Gas Ltd and the UK Power Networks Ltd raised **no objections** unconditionally.
- 14.10.3** Cadent Gas Ltd highlighted that they own and operate gas infrastructure within the area of the development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and/or restrictive covenants that exist. If buildings or structures are proposed directly above the apparatus, the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works if the scheme were acceptable (see informative).

15. ADDITIONAL DUTIES

15.1 Public Sector Equalities Duties

- 15.1.1** The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers.
- 15.1.2** The Committee must be mindful of this duty inter alia when determining all planning applications. In particular, the Committee must pay due regard to the need to: (1) eliminate discrimination, harassment,

victimisation and any other conduct that is prohibited by or under the Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 15.1.3** Due consideration has been made to The Equality Act 2010 during the assessment of the planning application, no conflicts are raised.

15.2 Human Rights

- 15.2.1** There may be implications under Article 1 (protection of property) and Article 8 (right to respect for private and family life) of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions; however, these issues have been taken into account in the determination of this application.

16. CONCLUSION

- 16.1** The planning balance would be against the development. Consequently, when assessed against the policies in the NPPF taken as a whole, and as there are no other material considerations indicating otherwise, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. The proposal would **not** be sustainable development for which paragraph 11(d) of the NPPF indicates a presumption in favour (given the significant harm to the character and appearance of the countryside).

- 16.2** It is therefore recommended that the application be refused.

17. REASONS FOR REFUSAL

- 1** The proposed earth bunds would appear stark and unnatural and would cause significant harm to the character and appearance of the open countryside without sufficient justification for that harm. The proposed earth bunds would fail to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. The impact of the proposals cannot be adequately mitigated by landscaping measures. The proposed earth bunds would be contrary to policies S7, GEN2 of the adopted Uttlesford Local Plan (2005), codes C1.1C, ID1.1C of the adopted Supplementary Planning Document – Uttlesford District-Wide Design Code (2024), and paragraph 180(b) of the National Planning Policy Framework (2023).

- 2** The application has not provided sufficient ecological information on European protected species and mandatory biodiversity net gain. In the

absence of this information, the local planning authority has no certainty of the likely impacts of the development on European protected species and cannot demonstrate compliance with its statutory duties to conserve and enhance biodiversity and to prevent wildlife crime. The pre-development biodiversity value of the site has not been calculated appropriately, meaning there is no certainty that the biodiversity gain condition would be capable of being discharged. The development would fail to comply with policy GEN7 of the adopted Uttlesford Local Plan (2005), paragraphs 180(d) and 186(a) of the National Planning Policy Framework (2023), as well as paragraph 13 of Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990, section 40 of the Natural Environment and Rural Communities (NERC) Act 2006, and section 17 of the Crime and Disorder Act 1998.

- 3** The application has failed to demonstrate that the impact of the development on the Public Rights of Way network will not have unacceptable consequences to the detriment of highway safety for all public right of way users. Therefore, in the absence of this information, the development would be contrary to policy GEN1 of the adopted Uttlesford Local Plan (2005), and paragraphs 115, 114(d), 116(c) of the National Planning Policy Framework (2023).

APPENDIX 1 – ESSEX COUNTY COUNCIL HIGHWAYS

Your Ref: UTT/24/2359/FUL
Our Ref: 53886
Date: 22nd November 2024



Director for Highways
and Transportation

To: Uttlesford District Council
Assistant Director Planning & Building Control
Council Offices
London Road
SAFFRON WALDEN CB11 4ER

County Hall
Chelmsford
Essex CM1 1QH

Recommendation

Application No.	UTT/24/2359/FUL
Applicant	Messrs Baker, Baker, Baker, Wisbey & Twigg
Site Location	Land To The East Of May Walk Elsenham Road Stansted Essex
Proposal	Reshaping and reduction of existing earth bunds, erection of boundary fencing with gates, planting boundary hedging, completion of bunding work previously halted, landscaping of bunds, erection of a stable block, preparation of grazing paddock

The Highway Authority has reviewed the supporting information and plans submitted with the application, however the applicant has failed to demonstrate that the proposal will not have a detrimental impact on the users of the public rights of way network and to ensure that a safe and suitable access can be maintained at all times. Therefore:

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

1. Insufficient information is provided within the application to demonstrate to the satisfaction of this Authority that the impact on the Public Rights of Way network caused by this proposal will not have unacceptable consequences in terms of highway safety for all public right of way users, more specifically:
 - i. As far as can be determined from the submitted information the applicant has not obtained the definitive widths and routes of the Public Rights of Way affected and therefore it is unclear if Public Right of Way Footpath no. 44 (Stansted Mountfitchet) and Public Right of Way Bridleway no. 25 (Stansted Mountfitchet) are obstructed by the proposal.
 - ii. No information has been submitted for the specification of the unauthorised earth bunds in terms of gradient and the requirement for retaining structures.
 - iii. No information has been submitted on drainage.
 - iv. No information has been submitted for the purpose of the service strip and whether its location is obstructing Public Right of Way Footpath no. 44 (Stansted Mountfitchet) and Public Right of Way Bridleway no. 25 (Stansted Mountfitchet).

- v. Public Right of Way Footpath no. 44 (Stansted Mountfitchet) and Public Right of Way Bridleway no. 25 (Stansted Mountfitchet) have not been acknowledged on all of the submitted drawings.

Therefore this proposal is contrary to the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, and Uttlesford Local Plan Policy GEN1.

Informatives:

- i. The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over Public Right of Way Footpath no. 44 (Stansted Mountfitchet) and Public Right of Way Bridleway no. 25 (Stansted Mountfitchet) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

Notes:

- i. No information has been submitted for the need of the 6.3m wide gate on Public Right of Way Footpath no. 44 (Stansted Mountfitchet). The applicant has confirmed that they have no vehicular rights on Public Right of Way Footpath no. 44 (Stansted Mountfitchet).



.....
pp. Director for Highways and Transportation
Enquiries to Eirini Spyrtou

APPENDIX 2 – LOCAL FLOOD AUTHORITY

-----Original Message-----

From: Suds [REDACTED]
Sent: 08 October 2024 11:04
To: Avgerinos Vlachos [REDACTED]
Subject: RE: [External]>> RE: Planning Application Consultation - N UTT/24/2359/FUL (SUDS-007804)

Good morning, Avgerinos,

Thank you for getting back to me.

As the development is classed as a minor, there does not appear to be sufficient scope to provide SUDS on site, therefore, we do not wish to comment on this application.

However, if you do have any specific concerns, please do not hesitate to contact us.

Many thanks,

Anna Murphy (she/her)
Development and Flood Risk Officer
Climate Adaptation and Mitigation | Green Infrastructure and SUDS

Adr: E1 County Hall, Chelmsford, Essex, CM1 1QH
Email: anna.murphy@essex.gov.uk