

PLANNING COMMITTEE AGENDA

Tuesday, 08 May 2018 at 07:15 PM

**Council Chamber, Braintree District Council, Causeway House, Bocking
End, Braintree, CM7 9HB**

THIS MEETING IS OPEN TO THE PUBLIC
(Please note this meeting will be webcast and audio recorded)
www.braintree.gov.uk

Members of the Planning Committee are requested to attend this meeting to transact the business set out in the Agenda.

Membership:-

Councillor K Bowers	Councillor Lady Newton
Councillor Mrs L Bowers-Flint	Councillor Mrs I Parker
Councillor T Cunningham	Councillor F Ricci
Councillor P Horner	Councillor Mrs W Scattergood (Chairman)
Councillor H Johnson	Councillor P Schwier
Councillor S Kirby	Councillor Mrs G Spray
Councillor D Mann	

Members unable to attend the meeting are requested to forward their apologies for absence to the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by 3pm on the day of the meeting.

A WRIGHT
Chief Executive

INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS

Declarations of Disclosable Pecuniary Interest (DPI), Other Pecuniary Interest (OPI) or Non- Pecuniary Interest (NPI)

Any member with a DPI, OPI or NPI must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a DPI or OPI or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the Chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

Public Question Time – Registration and Speaking on a Planning Application/Agenda Item

Anyone wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk no later than 2 working days prior to the meeting. The Council reserves the right to decline any requests to register to speak if they are received after this time.

Registered speakers will be invited to speak immediately prior to the relevant application/item. Registered speakers wishing to address the Committee on non-Agenda items will be invited to speak at Public Question Time. All registered speakers will have 3 minutes each to make a statement.

The order in which registered speakers will be invited to speak is: members of the public, Parish Councils/County Councillors/District Councillors, Applicant/Agent.

The Chairman of the Planning Committee has discretion to extend the time allocated to registered speakers and the order in which they may speak.

Documents: There is limited availability of printed Agendas at the meeting. Agendas, Reports and Minutes can be accessed via www.braintree.gov.uk

WiFi: Public Wi-Fi (called BDC Visitor) is available in the Council Chamber; users are required to register when connecting.

Health and Safety: Anyone attending meetings are asked to make themselves aware of the nearest available fire exit. In the event of an alarm you must evacuate the building immediately and follow all instructions provided by staff. You will be directed to the nearest designated assembly point until it is safe to return to the building.

Mobile Phones: Please ensure that your mobile phone is switched to silent during the meeting in order to prevent disturbances.

Webcast and Audio Recording: Please note that this meeting will be webcast and audio recorded. You can view webcasts for up to 6 months after the meeting using this link: <http://braintree.public-i.tv/core/portal/home>

We welcome comments to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended, you can send these to governance@braintree.gov.uk

1 Apologies for Absence**2 Declarations of Interest**

To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.

3 Minutes of the Previous Meeting

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 24th April 2018 (copy to follow).

4 Public Question Time

(See paragraph above)

5 Planning Applications

To consider the following planning applications and to agree whether any of the more minor applications listed under Part B should be determined “en bloc” without debate.

Where it has been agreed that applications listed under Part B will be taken “en bloc” without debate, these applications may be dealt with before those applications listed under Part A.

PART A

Planning Applications:-

- | | | |
|-----------|-----------------------------------------------------------------------------------------------|------------------|
| 5a | Application No. 17 00359 OUT - The Dutch Nursery, West Street, COGGESHALL | 5 - 41 |
| 5b | Application No. 17 00973 FUL - Land at Bury Lane, HATFIELD PEVEREL | 42 - 88 |
| 5c | Application No. 17 01681 FUL - Massenet, Wickham Bishops Road, HATFIELD PEVEREL | 89 - 105 |
| 5d | Application No. 18 00185 FUL - Land adjacent to 67 Little Yeldham Road, LITTLE YELDHAM | 106 - 117 |

PART B

Minor Planning Applications:-

5e	Application No. 18 00161 FUL - 121C Swan Street, SIBLE HEDINGHAM	118 - 126
5f	Application No. 18 00370 FUL - The Old Stables, Sheepcot Road, CASTLE HEDINGHAM	127 - 134
5g	Application No. 18 00437 LBC - Town Hall Centre, Fairfield Road, BRAINTREE	135 - 141
6	Development Management Enforcement Plan	142 - 175
7	Urgent Business - Public Session To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.	
8	Exclusion of the Public and Press To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.	

At the time of compiling this Agenda there were none.

PRIVATE SESSION

Page

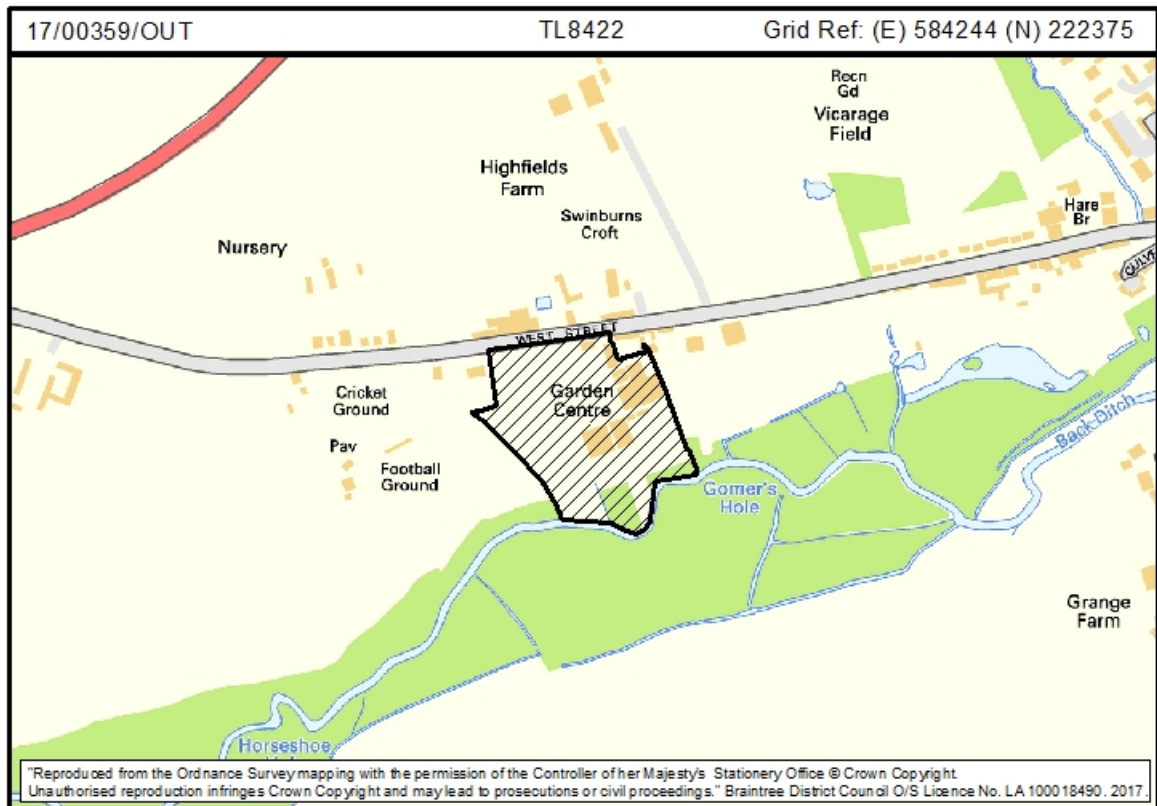
9	Urgent Business - Private Session To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.
----------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

AGENDA ITEM NUMBER 5a

PART A

APPLICATION NO:	17/00359/OUT	DATE	15.03.17
APPLICANT:	Mr Bullock	VALID:	
AGENT:	Trine Developments Ltd, Epsom 1, The Centrix Building, Keys Business Village, Keys Park Road, Hednesford, Cannock, Staffordshire, WS12 2HA		
	Teal Planning Ltd Marie Nagy, Brentano Suite, Solar House, 915 High Road, North Finchley, N12 8QJ		
DESCRIPTION:	Outline planning application for the demolition of all existing buildings, new access arrangements off West Street and (1) with only landscaping reserved for the erection of 6 no. residential units (Use Class C3) adjacent to West Street, (2) with all matters reserved for up to a maximum of an additional 42 no. residential units (Use Class C3) and new public space off West Street, Coggeshall		
LOCATION:	The Dutch Nursery, West Street, Coggeshall, Essex, CO6 1NT		

For more information about this Application please contact:
 Mrs Natalie Banks on:- 01376 551414 Ext. 2545
 or by e-mail to: natalie.banks@braintree.gov.uk



SITE HISTORY

04/00245/FUL	Erection of barrel roofed, open sided plant protection area to be attached to existing glass house	Granted	29.03.04
04/00757/FUL	Erection of field shelter	Granted	15.06.04
90/00338/PFBS	Extension to form Office and retail area. Erection of 2 no. retail units. Change of use of shop to Tea Room.	Granted	17.04.90
91/00366/E	Proposed 5 Caravan Site		
96/00977/FUL	Removal of existing greenhouse, erection of new greenhouse and new access with improved parking	Granted	25.10.96
04/02424/COU	Change of use of land for provision of pony rides and construction of associated structures for animal welfare	Granted	31.01.05

POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5th June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16th June to 28th July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9th October 2017. The Section 1 of the Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government. The Part 2 Draft Local Plan examination will take place later this year.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

“The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given) and;

The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.

Accordingly the Council can currently afford some weight to the emerging Publication Draft Local Plan 2017.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

National Planning Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP10	Residential Density
RLP54	Transport Assessments
RLP55	Travel Plans
RLP56	Vehicle Parking
RLP64	Contaminated Land
RLP65	External Lighting
RLP69	Sustainable Urban Drainage
RLP70	Water Efficiency
RLP71	Water Supply, Sewerage & Drainage
RLP73	Waste Minimisation
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings
RLP138	Provision of Open Space in New Housing Developments

Braintree District Local Development Framework Core Strategy 2011

CS2	Affordable Housing
CS5	The Countryside

CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment
CS10	Provision for Open Space, Sport and Recreation
CS11	Infrastructure Services and Facilities

Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP27	Comprehensive Redevelopment Area - Former Dutch Nursery, West Street, Coggeshall
LPP33	Affordable Housing
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP49	Broadband
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings
LPP63	Archaeological Evaluation, Excavation and Recording
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP78	Flooding Risk and Surface Water Drainage
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting
LPP82	Infrastructure Delivery and Impact Mitigation

REASON FOR APPLICATION BEING CONSIDERED AT PLANNING COMMITTEE

This application is being referred to the Planning Committee as the application is considered to be of significant public interest and represents a departure from the adopted Development Plan.

NOTATION

The site comprises land which is undesignated in terms of the Braintree District Local Plan Review and is identified as a Comprehensive Redevelopment Area in the emerging Braintree District Publication Draft Local Plan.

SITE DESCRIPTION

The Dutch Nursery is located outside of the Coggeshall Village Envelope on the south side of West Street which is one of the main axial routes into the Village on the route of Stane Street, the old Roman Road.

The site, which measures approximately 3.28ha in area, is roughly square in shape extending as far south as the river valley. It is approximately 260m from the edge of the Village Envelope and the Conservation Area. It currently has two points of vehicular access onto West Street and an existing brick wall along the site frontage. The site slopes from north to south towards the river by approximately 7.8m and whilst most of it can be classed as 'brown-field' there is a green-field element in terms of the western edge and north-west corner. It encompasses the paddocks bordering the western and northern boundaries facing towards the former Isinglass Works, land to the rear of Nos 93-105 West Street to the east, the former garden centre and part of the river corridor to the south. The southern boundary of the site is also adjacent to the Blackwater Plantation Local Wildlife Site.

The site is relatively well-contained by the site boundaries, except on the western edge where there is more openness as a result of the paddocks. Further to the west beyond the paddocks are some private residential properties and an access with a public right of way to Coggeshall Football Club. The site's access arrangements, existing buildings and internal boundary treatments restrict public access into and through the site. No public access is currently allowed through its full extent down to the River Blackwater.

The buildings fronting either side of West Street on the northern border of the site are Grade II Listed, including the former Isinglass Works, The Drying House, The Finings and No. 114 West Street. This collection of buildings forms part of a small hamlet thought to be associated with the medieval wool industry. It was later associated with a tannery and isinglass factory, both of which would have made use of the watercourse which runs under the isinglass factory. These industrial-type processes were traditionally sited away from the core of the Village due to the likely environmental impact.

The southern part of the site is within Flood Zones 2, 3a and 3b which is the functional floodplain where water has to flow and be stored in times of flood. Residential development is classified as 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. *If development is proposed within Zones 3a and 3b, it would need to comply with national policy and would be required to pass the Sequential and Exception Tests.*

The site is within two ownerships, The Dutch Nursery and World of Water. It is occupied by:

- The Dutch Nursery garden centre which closed in November 2015;

- World of Water retail unit;
- A number of additional buildings and structures which are located along the eastern side of the site that are within the ownership of the Dutch Nursery. These include glass houses linked with the garden centre and additional freestanding retail stores. Of these only 2 are still occupied by additional retail outlets;
- The two accesses from West Street lead to an extensive area of hardstanding used for car parking and service access by all of the commercial users of the site under the overlapping ownerships of the Dutch Nursery and World of Water. This also includes an area adjacent to the western access to the site, which is set aside as an overspill car park for World of Water;
- Paddocks along part of the western extent of the site;
- Landscaped boundaries with established trees, planting, a low level brick wall along part of the site's West Street frontage and open space alongside the river.

West Street provides a direct route for vehicles, pedestrians and cyclists between the site and village centre to the east and to the A120 trunk road to the west. The road is subject to a 40mph speed restriction next to the site. This reduces to 30mph on the eastbound approach to the main village centre.

The site is unallocated in the Braintree District Local Plan Review, however, it is relevant to note that it has been designated as a Comprehensive Redevelopment Area in the Braintree District Publication Draft Local Plan as set out within Policy LPP27. This Policy states *“that proposals for the redevelopment of the site will be supported which could provide a mixture of uses including:*

*Residential
Employment
Retail*

Community uses will also be encouraged including, but not limited to, public access to the river, and informal recreation space. Part of the site is within the Flood Zone and built development would not be supported in this area.”

Coggeshall is also designated as a 'key service village' in the Braintree District Core Strategy and the Braintree District Publication Draft Local Plan as one of the larger villages in the District that serve a wider rural hinterland. Development may be considered sustainable within such a village, subject to specific constraints and opportunities for that village.

PROPOSAL

This proposal seeks planning permission for the demolition of all existing buildings, new access arrangements off West Street. It is a 'hybrid' application with full details provided for the West Street frontage site as set out at (1) and outline details at (2) below:

- (1) landscaping only reserved for the erection of 6 no. residential units (Use Class C3) adjacent to West Street,
- (2) all matters reserved for up to a maximum of an additional 42 no. residential units (Use Class C3) and new public space off West Street, Coggeshall.

Although the site is not located within a Conservation Area it was recognised that it is highly sensitive by reason of its edge of village location, the many historic buildings bordering the site and the landscape setting of the river corridor.

The application was originally submitted for 74 residential units, with up to 500sqm employment uses (Class A1-A5, B1a, B1b, D1 and D2). The quantum of development has been reduced to maximum 48 units and the commercial element has been withdrawn. Given the constraints of the site, concerns were raised about the relationship and compatibility between a prominent commercial use and a residential use on the site. Taking into account the quantum of development proposed, it was also considered that it could all be satisfactorily accommodated on the site if relevant Standards were to be achieved in terms of residential amenity. Ensuring adequate parking, including staff/visitor parking was provided and that existing commercial activity in the village would not be undermined, was also an important consideration.

The development would be accessed from a single point opposite to the access to No. 114 West Street. A single spine road with perpendicular roads branching off is proposed in order to reveal a view of the river valley from West Street, to soften the western edge of the development and to utilise the flood zone area better as part of the open space.

Full details have been submitted in respect of Units 1-6. The access would be configured with Units 1-5 fronting onto West Street and Unit 6 fronting onto the new spine road. The buildings fronting West Street would be set back from the existing building-line to provide some defensible space and to soften the juxtaposition between the countryside edge and the historic settlement. The proposed design of these units is an attempt to respond to the organic growth of the existing settlement, taking inspiration from the adjacent terrace. Some of these dwellings are deep in plan and narrow in width or shallow in plan but of greater width, which is indicative that they were not all built at the same time. A 'mismatched' terrace of 4 units would therefore be created with varied roof designs and heights, together with design detailing and materials to give the effect of chronology. Unit 5 would be a detached house with a dual frontage to turn the corner into the spine road and 2 parking spaces at the foot of the garden. Unit 6 would be a detached dwelling of a more simple design with gable ends. To the south of this unit, an access would be created to serve a parking court for Units 1-4 and 6, to avoid having parking on the West Street frontage.

The remainder of the layout is indicative, illustrating how the development could be accommodated in order to demonstrate that relevant Standards can be achieved in terms of the residential amenity of the future occupiers. The dwellings would be set facing onto these roads in terraces of three, semi-detached pairs and detached dwellings. On-plot parking is also proposed at the ratio of 2 spaces per dwelling +25% for visitors in accordance with the Vehicle Parking Standards. A green edge to the west and north-west corner of the site will be retained and enhanced in order to soften the impact of the development.

No development is proposed in the southern portion of the site within Flood Risk Zones 2, 3a and 3b. This area will be incorporated as part of the open space and potential development as a riverside walk. The western and northern space opposite Isinglass Mews will be landscaped and enhanced as open space, with the existing trees retained. A play area is indicated in the southern open space. The existing brick wall at the front of the site will be retained and lowered in height.

The application is accompanied by the following documents/reports, some of which have been updated to reflect the revised development:

Archaeological Desk Based Assessment
Design and Access Statement
Heritage Statement
Planning Statement
Flood Risk Assessment Reports
Drainage Strategy
Landscape and Visual Impact Assessment
Phase 1 Contamination Desk Top Study
Preliminary Ecological Appraisal
Statement of Community Involvement
Transport Assessment
Tree Survey

The following key supporting information from these reports is summarised below:

The Design and Access Statement, Planning Statement and respective Addendums describe the evolution of the design which included a public exhibition and consultation with the Neighbourhood Plan Group. The relevant planning context for the consideration of the updated application proposals are considered to be the deteriorating condition and declining occupancy of the site, adopted national and saved local planning policies that prioritise it as a brownfield development opportunity in a sustainable village location, the consultation responses received to the original planning application requesting the removal of the non-residential part of the development and the overall reduction in the density and number of units.

The submission of detailed design proposals for the north-eastern corner of the site fronting West Street and the updated parameters for the site overall

are an attempt to ensure that key design objectives and standards could be met in accordance with the Essex Design Guide and the Vehicle Parking Standards.

The amended proposal seeks to:

- Retain the main access into the site with improved visibility;
- Ensure the buildings and gardens of adjoining properties are respected;
- Replace the existing commercial building on the north-east frontage of the site with Plots 1 – 5;
- Open up and improve the western edge of the site as a new public amenity space with a physical separation between proposed new dwellings and the Isinglass Mews on the opposite side of the road;
- Retain the access and block structuring across the central part of the site but set at a lower density;
- Realign the spine road to enable the residential blocks to be positioned eastwards to increase the depth of the western green corridor and provide greater separation from the football club;
- Retain the western and southern parts of the site as open space with managed landscape and ecology features and maintain the site's contribution towards the local landscape setting;
- Provide new views and direct access from West Street through to the river frontage;
- Set parameters to ensure new development would be of an appropriate height and form to open up wider views through the site towards the River;
- Ensure all public carriageways and amenity spaces would be overlooked by active frontages;

The issue of viability was raised by the applicant in respect of the original submission and a Viability Statement was submitted and reviewed.

The Planning Statement Addendum refers to the viability of the development particularly in terms of the likely financial implications resulting from the removal of the commercial/employment space and the reduced scale of residential development. A revised Viability Assessment has been submitted and reviewed and is discussed further below.

CONSULTATIONS

Coggeshall Parish Council

(Original Submission) – Did not object to the original scheme, as it incorporated many suggestions made by the Parish Council and the Neighbourhood Planning Group. However, a number of concerns were raised, principally with the quantum of development, the impact on the West Street frontage and listed buildings (development should be discreet, with a low visual impact), the need for more parking than originally shown as

Coggeshall has an on-going parking problem, the pedestrian environment, the likely impact of the commercial element on the village centre, particularly if a food outlet is proposed and ensuring that affordable housing is retained as such.

(Revised Submission) – Following the submission of the revised plans, the Parish Council has expressed concern at the withdrawal of the business element. The original site contained many thriving businesses which clearly demonstrated a need for a commercial element. The Parish Council would welcome the introduction of ‘craft homes’ similar to Priors Way in Coggeshall. The Parish Council preferred the previous scheme and would like to see a higher housing density and more sympathetic design in relation to the existing housing which is more conducive to the creation of a community with central green spaces. There are also concerns with the site entrance which is situated in a dip and also the possibility of parking in West Street in front of plots 1-6. It was also pointed out the Neighbourhood Planning Group is also working on a Design Guide which it was hoped could be followed when detailed planning is submitted.

Environment Agency – No objections on flood risk grounds, subject to conditions and provided that the local planning authority is satisfied that the Sequential and Exception Tests are complied with.

Anglian Water – Comment that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary. The foul drainage from this development is in the catchment of Coggeshall Water Recycling Centre that will have available capacity for these flows. The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is acceptable, subject to relevant conditions.

NHS England – A contribution is requested to offset the impact of the development and decisions are on-going. The final figure will be reported to Members at the meeting.

ECC SuDs Officer – No objections, subject to conditions.

ECC Archaeology – No objections, subject to conditions.

ECC Historic Buildings Consultant – Supports the de-intensification arrived at following the original submission for 74 residential units and a business hub as it would be difficult to ensure such uses sensitively exist on the site in tandem with residential dwellings. Previous concerns also related to the depth and density of the proposed development, the proposed flatted block at the front of the site and the relatively ‘generic’ nature of the layout. The applicant has responded to the second of these by omitting the proposed block of flats and creating an area of public open space to the north-west of the site and the positive landscaping of this area could be beneficial in reinforcing the sense of separation between the Isinglass Factory and the new development. Although the depth of the site has not been reduced, the layout

is much more rationalised and less dense, which reduces the sense of overdevelopment evident on the original masterplan. Concerns remain as to the impact on the adjacent listed buildings, which form part of a small hamlet of historic industrial buildings, with relatively limited areas of modern insertion.

There is therefore a degree of harm to the historic understanding of these buildings to integrate them into a larger area of housing which must be weighed against the positive benefit accrued from the demolition of the existing buildings and the creative re-landscaping. Weighing this in the balance from a heritage perspective the proposed extent of the built form is considered to cause harm, but at the lower end of less than substantial, and would need to be weighed in the wider planning balance against the other accrued public benefits.

In terms of the detailed submission in respect of Units 1-6 raised concerns were raised, therefore, a further set of plans has been submitted. The Historic Buildings Consultant has reviewed these and comments that they respond to these concerns. However, the application would inevitably result in a degree of harm which should be weighed in the planning balance. Conditions are necessary to cover windows, doors and materials. It is expected that doors and windows should be constructed of timber, with solid glazing bars and no trickle vents.

ECC Highways – No objection, subject to conditions relating to the access and a construction management plan.

ECC Education – a contribution has been requested, however, discussions are on-going. Members will be advised of the revised figure at the meeting.

BDC Housing Enabling Officer – No objection subject to 40% of the 48 units proposed being provided as affordable housing. 50% of the affordable units shall be delivered prior to 50% occupation of the market units and 100% of the affordable units shall be delivered prior to the occupation of 80% of the market units.

In terms of tenure, a 70/30 mix (rented over shared ownership) is required with all units accessible at ground floor level to be compliant with either Lifetime Homes standards or Building Regulations Part M Cat 2.

BDC Environmental Health Officer – Comments that it is positive that the non-residential uses have been omitted removing potential noise sources. However, concerns remain regarding the mitigation of potential noise levels from the activities at the Coggeshall Football Club. An updated noise report was submitted, however, a revised report is necessary as a result of the new layout. In addition, it is also considered necessary to assess the actual levels of light affecting the site from the floodlights at the Coggeshall Football Club, as the previous report was based purely on prediction. The floodlights are sited at the corners of the football pitch, at 18m in height and with no shielding to prevent light travelling to the East. The vegetation is sparse and there is overspill of light and glare. Therefore the conclusions of the report that there

will not be over-spill and glare are not agreed. Whilst the Football Club has restrictions to maintain light levels they may not be able to comply with this condition once the new residential property is introduced. An updated lighting report with measured light levels at the time of the football activity is required, together with details of any mitigation.

Should planning permission be granted conditions are suggested during the construction phase to mitigate disturbance to nearby residential premises, etc.

BDC Landscapes Officer – comments that the site is relatively well contained within the existing boundary features and the willow dominated landscape where the land holding borders on to the floodplain of the River Blackwater. The landscape approach should demonstrate through the landscape proposals and the Landscape and Ecology Management Plan that the character and nature of new planting will be sympathetic in tone to the riverine setting and acknowledge the quality of the landscape within the river corridor as identified in the recent landscape character assessment study for Coggeshall and other parts of the district. The street scene and particularly the main spine road into the site has been presented with a significant number of street trees which is commendable but it should be demonstrated that there is the width within the highway verge for them to be accommodated for the long term either within the adopted highway or as public realm maintained by a separate management company. Trees within private garden ground are at the whim of the householder so cannot be considered as a reliable amenity feature once the development has been completed. The major components of the structural landscape and amenity for the development need to lie with areas managed as public realm.

BDC Ecology Officer – no objection, subject to conditions including that no development shall take place until a suitable Biodiversity Method Statement is submitted which should include mitigation both during and post construction. Japanese knotweed, an invasive non-native species, has been identified on the site. Full details of how this will be treated and eradicated should be included in the Biodiversity Method Statement.

BDC Waste – no objections.

REPRESENTATIONS

Representations objecting to the proposal have been received from 25 residents, together with 1 general comment. The objections are summarised as follows:

- Overdevelopment – too many units;
- Lack of detail in terms of impact on the listed buildings and countryside;
- Layout is not 'in-keeping' with Coggeshall;
- The development is not of a high enough density;
- Too much development of 'green-field land' – particularly 'Ponyland';
- Impact on infrastructure, existing traffic and congestion;

- Parking problems in the centre of Coggeshall should be addressed before any further development is considered;
- Tandem parking is unacceptable;
- Lack of capacity in primary school;
- Lack of capacity at Doctors surgery;
- Lack of dentist in Coggeshall;
- Impact on wildlife habitats;
- The scale of the development is inappropriate, particularly when seen in conjunction with the Bovis development on Colchester Road;
- The development is insensitive to historic buildings;
- Loss of views across river valley;
- Loss of green paddocks on western edge of site;
- The open space offered is remote from other parts of the village;
- The development should not include any commercial property;
- The commercial element should not be removed;
- The housing mix is wrong – bungalows should be included;
- Increased flood risk as a result of development;
- Noise and light pollution;
- Play area is sited in the flood plain;
- No development should front onto West Street – units 1, 2, 3, 4 and 5 should be omitted.
- Consideration should be given to providing parking for existing residents on West Street.

REPORT

The 5 Year Housing Land Supply

The Council is currently unable to demonstrate a 5 year housing land supply. The scale of the shortfall in housing supply is a matter that has been the subject of argument at recent Public Inquiries relating to residential developments in the District. A key aspect of the argument has been whether to apply the “Sedgefield approach” or the “Liverpool approach” to the calculation of the shortfall. The difference between the two is that under the Sedgefield approach, Local Planning Authorities make provision for any undersupply from previous years over the next 5 years (i.e. front loading) whereas the Liverpool approach spreads provision for the undersupply over the full term of the Plan (i.e. reducing the level of supply needed in the first five years when compared to the Sedgefield approach).

The conclusion reached by two Planning Inspectors (ref. appeal decision Land at West Street Coggeshall dated 12 July 2017, and Land at Finchingfield Road Steeple Bumpstead dated 6th September 2017) is that although the District Council advanced the Liverpool approach, the Sedgefield approach should be applied to the calculation until there is greater certainty with the Local Plan. These appeal decisions are a material consideration in the determination of residential development proposals and it must therefore be acknowledged that whilst the District Council's forecast housing supply (as at 30 December 2017) is considered to be 5.15 years based on the Liverpool

approach, it is 4.03 years based on the Sedgefield approach. Any recent updates will be provided to Members at the meeting.

The lack of a 5 year housing land supply is therefore a material consideration in the determination of this planning application and must be factored into the overall planning balance.

The Development Plan and the NPPF

Planning law requires that proposals that accord with the local authority's Development Plan must be approved without delay. Paragraph 14 of the NPPF sets out that there is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking. Paragraph 17 sets out Core Planning Principles, which require that development is, amongst other things, 'plan-led', creative, and of high quality design which takes account of the different roles and character of different areas.

In terms of the Council's adopted Development Plan the site is outside of the defined Coggeshall Village Envelope, in an area where countryside policies apply and new residential development would not be permitted in accordance with Policy RLP2 of the Braintree District Local Plan Review and Policy CS5 of the Braintree District Core Strategy. The site has been allocated as a Comprehensive Redevelopment Area in the Braintree District Publication Draft Local Plan as set out within Policy LPP27, and whilst this is a material consideration, little weight can be afforded to it at this stage. Notwithstanding the limited weight, this draft allocation sets out the Council's intentions in terms of the future of this site.

The NPPF also states that where the Development Plan is absent, silent or relevant policies are out of date, planning permission should be granted without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.

Heritage

In terms of development within the settings of listed buildings, regard must first be had to Section 66(1) of The Planning (Listed Buildings and Conservation Areas Act) 1990. This imposes on the local planning authority a duty to "...have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".

The National Planning Policy Framework (NPPF) identifies that the protection and enhancement of the historic environment is an important element of sustainable development and whilst it establishes a presumption in favour of sustainable development, it states that the significance of a heritage asset can be harmed or lost as a result of development within its setting (para 132). The

conservation of heritage assets is a core principle of the planning process (para 17). Paragraph 128 requires developers to provide sufficient detail to describe the significance of any heritage assets affected in order to understand the potential impact of the proposal on their significance.

Paragraph 129 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. This assessment should be taken into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

Paragraph 133 states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, consent should be refused.

Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Local planning authorities should take into account:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- The wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- The desirability of new development making a positive contribution to local character and distinctiveness; and
- Opportunities to draw on the contribution made by the historic environment to the character of a place.

The Council also has a duty under the terms of the Listed Building and Conservation Areas Act 1990 to have regard to the settings of listed buildings. In addition to this, it has become apparent following the consultation on the first iteration, that there are a number of competing elements which must be balanced against each other in order to agree an acceptable way forward. This has meant that rather than insisting on strict compliance with the draft policy, a 'design-led' scheme was more appropriate in terms of achieving a layout that would be acceptable in both addressing the poor contribution the site currently makes to the area but also does not undermine the remaining historic assets or the associated undeveloped western and southern portions of the site.

In accordance with Paragraph 126 of the NPPF the Council is required to have a positive strategy for the conservation and enjoyment of the historic environment as heritage assets are an irreplaceable resource that clearly make a positive contribution to local character and distinctiveness. The likely impact of the development of this site on the settings of the listed buildings and the linear nature of the medieval layout evident in Coggeshall was considered to be the most overriding consideration. This is borne out in the responses from the Historic Buildings Consultant and the ECC Archaeology Officer who states 'Immediately adjacent to the site a number of listed buildings survive along West Street which date from the 1500's onwards. The survival of these buildings reflects the exceptional preservation of many elements of the later medieval and post-medieval town of Coggeshall. Excavation in the adjacent fields has confirmed the continuation of medieval activity and later along this road and there is the further potential for archaeological remains relating to the medieval and post-medieval expansion of the town along the road frontage'.

Concerns that this application would be submitted in outline form were raised with the applicant at the 'pre-application' stage, however, as the site is not in a Conservation Area there was no clear policy basis, either National or local for requiring a 'full' application. Following extensive negotiations, the applicant agreed to amend the proposal to a 'hybrid' application whereby full details have been provided in respect of the dwellings fronting onto West Street.

A 'pastiche' design for the street frontage was proposed with the dwellings designed to reflect the 'organic' individuality of the existing dwellings on the south side of West Street. They would be provided with shallow front gardens with a low walled enclosure on the pavement edge. This was seen as a way of expressing the fact that they are part of a new development which at the same time harmonises with the existing. The space is deliberately shallow to prevent the frontage being converted to a car parking space at a later stage. The individuality of the houses would be expressed with variations to roof tiles and other detailing such as window sills, brick string courses or plinths.

It is important to note that the indicative layout and parameter plans have evolved in response to the concerns expressed by the Historic Buildings Consultant and the Parish Council regarding the likely impact of the development on the listed buildings together with the impact of the overall depth of the development. These two issues combined with the hard/dense edge originally proposed on the western side of the site would have a permanent and detrimental impact in relation to the nearby listed buildings, as well as the river valley, particularly when compared to the current appearance of the site. It is acknowledged that much of the existing site is given over to hardstanding, with some rather sporadic buildings, however, they are single storey. To replace this situation with a highly dense layout would not result in a betterment of the site but would result, in Officer's view, in unacceptable harm to the historic buildings, contrary to Paragraph 133 above, which means the application should be refused.

The purpose of the layout and parameter plans submitted with this outline planning application has been to demonstrate that the quantum of development can be accommodated on the site. This includes a realistic assessment that adequate garden sizes and parking provision can be provided in order to achieve a good standard of amenity for the future occupiers and to ensure that such issues as over-spill parking outside the site do not occur. This is vital in terms of ensuring that the social and environmental aspects of the planning balance are factored in. However, the layout and parameter plans are not proscriptive and can change at the reserved matters stage. They are not a diktat but a guide and officers are confident that the site can accommodate the amount of development now proposed.

In terms of the concerns regarding the 'depth' of the development, whilst this element is still apparent, the reduction in the quantum of development and the revised layout have gone a long way to reduce the perception of over-development apparent in the original layout to the extent that the Historic Buildings Consultant considers that the proposal will result in the lower end of less than substantial harm.

The indicative plans have therefore demonstrated that the quantum of development can be accommodated within the site constraints. Overall it is therefore concluded that the design of the proposal is acceptable and would not result in substantial harm sufficient to warrant refusal of the application as a 'foot note 9' objection. This 'less than substantial harm' must be weighed against the betterment of the site that will arise and the likely public benefit the contribution the development could make towards the District's housing supply.

Flood Risk and SuDs

Paragraph 100 of the NPPF states that, "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere". This general approach 'the sequential, risk-based approach' is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible". As such, it is not necessary for the Council to apply the Sequential or Exception Tests.

The proposed 'built' element of this proposal would be contained within land designated as being in Flood Risk Zone 1 of as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. In addition, the Environment Agency has not objected to the development or the Flood Risk Assessment submitted with the application. They welcome that public open space and a potential nature reserve can be accommodated with Flood Zones 2 and 3. The Agency is seeking to promote a flood risk management scheme to reduce flood risk to Coggeshall, Feering and Kelvedon. This site could

provide an opportunity to support the project as it could provide additional flood storage by landscaping and/or lowering the land to increase floor storage for the River Blackwater. The Environment Agency has suggested a condition that as part of the reserved matters application consideration is given to incorporate additional flood storage in the open space within Flood Zones 2 and 3. As the EA considers the development is acceptable, it is not considered that such a condition would meet the tests in the NPPF, however, an 'informative' is suggested advising the applicant to give consideration to this suggestion.

ECC Suds do not object to the proposal, subject to the conditions suggested. Therefore, it is concluded that the development is acceptable in terms of flood risk and surface water drainage.

Design, Layout and Residential Amenity

The NPPF places high quality design and a good standard of amenity for all existing and future occupiers as one of the 12 Core Planning Principles. Part 7 expands on this by stating that good design should contribute positively to making places better for people. Development that functions well and adds to the quality of an area, establishes a strong sense of place, optimises the potential of a site to accommodate development, responds to local character and creates safe and accessible environments which are visually attractive as a result of good architecture is fundamental. The following local plan policies are therefore relevant in terms of achieving good design.

Policy RLP10 of the Braintree District Local Plan Review seeks to ensure that the density and massing of residential development is well related to the characteristics of the site and the layout and density of surrounding development.

Policy CS9 of the Braintree District Core Strategy along with Policy RLP90 of the Braintree District Local Plan Review seek to promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment with the aim of creating good quality environments in all circumstances. Policy RLP90 in particular states that design should recognise and reflect local distinctiveness and ensure that the layout, height, mass and overall elevational design of buildings and development are in harmony with the existing context, including the impact on the skyline likely to arise from the form and scale.

Policy RLP56 of the Braintree District Local Plan Review seeks to ensure that all new development is provided with sufficient parking in accordance with Essex County Council's Vehicle Parking Standards 2009. The Standards require that for developments of this type, 1 space should be provided per unit with an additional space for every 8 units. These spaces should measure 2.9m x 5.5m.

Policy RLP100 of the Braintree District Local Plan Review indicates that development that is likely to affect the setting of a listed building will only be

permitted provided that it does not harm the setting. The Council will seek to preserve and enhance the settings of listed buildings by appropriate control over the development, design and use of adjoining land.

The Council has also adopted the Essex Design Guide as supplementary planning guidance. This recommends a minimum standard for amenity space of 50sqm for 2-bed and 100sqm for 3-bed dwellings.

Highways

Paragraph 29 of the NPPF acknowledges that transport policies have an important role to play in contributing to wider sustainability and health objectives. Paragraph 32 indicates that developments that generate significant amounts of traffic movement should be supported by a Transport Statement. Opportunities for the use of sustainable transport modes should be taken up, together with ensuring a safe and suitable access to the site. As referred to above, a new single access will be created on West Street, together with the creation of a new footway and requirement to provide travel packs. These requirements will be secured by appropriate conditions.

Policy CS7 of the Braintree District Core Strategy seeks to promote accessibility for all. Traffic and car parking will be carefully managed to encourage sustainable travel. Policy RLP56 of the Braintree District Local Plan Review seeks to ensure that sufficient vehicle parking is provided in all new development in accordance with the Vehicle Parking Standards. There is no doubt that the site is in a sustainable location in terms of its proximity to bus stops, footpaths and cycle lanes.

As referred to above, the proposal is acceptable in terms of highway safety and the illustrative masterplan demonstrates that development on the site could comply with the Vehicle Parking Standards.

The objections raised regarding parking problems in West Street and the centre of Coggeshall, are noted, however, as the proposed scheme would be compliant with the Vehicle Parking Standards, it would be unreasonable to withhold consent on these grounds. In addition ECC Highways have raised no objection on these grounds or highlighted any issues with regard to the centre of Coggeshall.

Landscape and Ecology

Policy CS8 of the Braintree District Core Strategy requires that development must have regard to the character of the landscape and its sensitivity to change. Policy RLP80 of the Braintree District Local Plan Review states that proposals for new development will be required to include an assessment of their impact on wildlife and should not be detrimental to distinctive landscape features and habitats. Policy RLP81 of the Braintree District Local Plan Review states that the Council will encourage the retention of locally native trees. Policy RLP86 states that development which would harm the open

character, nature conservation importance or recreational importance of the floodplains should not be permitted.

Contributing to conserving and enhancing the natural environment is another Core Principle of the NPPF, as are local strategies to improve health, social and cultural well-being for all. As referred to earlier in the report, the site is adjacent to the River Blackwater and is opposite an Essex Wildlife site. The Council's Landscape and Ecology Officers do not object to the scheme, subject to conditions. The Landscape Officer, along with the Environment Agency recognise that there is an opportunity for landscape and wildlife enhancements within the confines of the site, which would assist in improving the quality of the area in terms of the role it plays between countryside and the edge of the historic settlement. This in turn will contribute to aim set out in the NPPF of adopting a high quality of design in order to contribute positively to making places better for people.

Environmental Health Impacts

Policy RLP36 of the Braintree District Local Plan Review states that planning permission will not be granted for new development which would have an unacceptable impact on the surrounding area as a result of noise and other pollution. Concerns have been raised by the Council's Environmental Health Officer in respect of the likely impact of the football ground in terms of noise and light pollution on the occupiers of the proposed development. Whilst this issue is pertinent, it is an existing land use and the site is subject to a draft allocation, therefore to withhold consent on these grounds of the impact of the neighbouring recreational use could be difficult to substantiate in such circumstances.

S106 Contributions

Affordable Housing

Policy CS2 of the Core Strategy seeks a requirement of 40% for affordable housing, which in this instance equates to 14 x 2 bed 4 person houses (10 x Affordable Rent & 4 x Shared Ownership) and 5 x 3 bed 5 person houses (3 x Affordable Rent & 2 x Shared Ownership) in accordance with local need identified by the Housing Enabling Officer.

Policy LPP33 of the emerging Braintree District Publication Draft Local Plan states that affordable housing will be directly provided by the developer at a target of 40% of the total number of residential units sites in all other areas outside the main towns of Braintree (including Great Notley, Bocking and High Garrett), Witham and Halstead. The mix of ownership options will be subject to identified local needs. A mix of units to reflect the current local need will be required to be delivered on the site. If the affordable housing targets set out in the policy cannot be met then the applicant must provide a viability appraisal which will be independently verified and the affordable housing contribution will be set at the maximum viable level.

One of the Core Planning Principles set out in the NPPF is to encourage the effective use of land by re-using land that has previously been developed (brownfield land), provided that it is not of high environmental value (Paragraph 111). However, Paragraph 173 of the NPPF states that pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Therefore, the sites and the scale of development identified should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. It is recognised that redeveloping 'brown field' land can be less than straight-forward in terms of costs to the developer, therefore, it is not unreasonable for the local planning authority to take a pragmatic approach with regard to viability.

As referred to above, the applicant has provided a Viability Appraisal which has been appraised by the Council's commissioned consultant. The conclusion reached is that the scheme is viable, and this has now been accepted by the Applicant.

Public Open Space

Policy CS10 of the Core Strategy states that the Council will ensure that there is good provision of high quality and accessible green space, including allotments and publicly accessible natural green space to meet a wide range of recreation, outdoor sport and amenity needs in the district by requiring new development to make appropriate provision. Policy RLP138 of the Local Plan Review requires proposals for new residential development to provide or contribute towards the cost of improvements to community facilities and infrastructure appropriate to the type and scale of development proposed. Braintree District Council has adopted an Open Space Supplementary Planning Document (SPD) which sets out the process and mechanisms for the delivery and improvement of open space in the Braintree District.

The applicant has submitted an illustrative informal public open space plan which indicates that approximately 13,368sqm/3.30acres would be provided which is approximately 40% of the whole site area. The Illustrative landscape Masterplan indicates that a play area (LAP) would be provided in the south-western portion of the public open space, however, no details have been submitted. A condition is therefore suggested requiring further details at the reserved matters stage. The S106 will require that the play area and open space is managed by the Management Company who will be responsible for maintenance of the Open Space within the development.

The scale of the proposed development does not require on-site provision of Outdoor Sports or Allotments, and instead Policy CS10 and DLP Policy LPP44, requires that the developer make a financial contribution towards

provision or enhancement of these facilities off-site, where this is required to meet demand arising from the development. In terms of off-site provision, and in accordance with Table 6 of the Public Open Spaces Supplementary Planning Document, a contribution towards outdoor sport and allotments is considered appropriate, at £46,558.84, based on the indicative housing mix suggested by the Housing Enabling Officer.

There are a number of projects for Coggeshall set out in the Public Open Space Action Plan, however, the Parish Council would be consulted in terms of priorities for this money.

The Heads Terms are as follows:

1. Affordable Housing Provision
2. Public Open Space Provision

Provisions for public open space in accordance with the approved Parameter Plans and to include the southern amenity zone and a western link corridor;

Provisions for one of the following two ownership and maintenance options to be taken:

The setting up of a management company and service charge arrangement for each residential and commercial property to fund the on-going maintenance of the public open space; or

The offering of the public open space to the Parish Council for the transfer of the public open land to its ownership together with a maintenance contribution of [£-] to be used only for the maintenance of that land as public open space and for no other purposes.

3. Education – contribution.

Early Years Education and (Pre-School) Childcare (EY&C)

4. NHS England Contribution – contribution

CONCLUSION

As referred to above the NPPF makes it clear that applications for residential development should be considered in the context of the presumption in favour of sustainable development. In order for development to be considered sustainable, three elements need to be balanced to ensure that it will provide wider benefits in the public interest. The NPPF refers to these elements as environmental, social and economic benefits. These roles should not be taken in isolation because they are mutually dependent. Pursuing sustainable development will involve seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life. In

this case it is considered that the development will provide significant environmental benefits in terms of the betterment of the site and potential enhancements to the landscape setting and street scene. This will also provide a social benefit in terms of opening up previously restricted access to the river and in terms of the contribution to the Council's housing supply, including social housing. It will also bring short and long-term economic benefits during the construction phase and from the contribution the occupiers are likely to make in sustaining Coggeshall as a village.

There have been many conflicting areas highlighted in the assessment of these applications including the aspiration for mixed-use development set out in the draft emerging Local Plan and the need to ameliorate the impact of the proposed development on both the historic environment and the landscape setting. It is considered that through negotiation, an acceptable compromise has been reached in terms of achieving a good standard of design which responds to the context.

The Planning Balance

The application site is located outside of the Village Envelope, wherein residential development is not acceptable in accordance with Policy RLP2 of the Braintree District Local Plan Review. The site has been allocated as a Comprehensive Redevelopment Area in the Braintree District Publication Draft Local Plan, however, whilst this provides a clear steer in terms of the Council's intentions for this site, little weight can be given to the allocation at this stage. It is therefore necessary to undertake the planning balance set out in Paragraph 14 of the NPPF. For decision taking this means, unless material considerations indicate otherwise:

- 'approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted' (known as a Footnote 9 objection).

Given that that the scheme would have some impact on heritage assets, the development will inevitably lead to some harm. However, in accordance with Paragraph 134 of the NPPF, this harm is considered to be 'less than substantial' in which case, the local planning authority is required to weigh this harm against the public benefits arising from the proposal. In this regard it is considered that there would be many benefits arising from the proposal such as the betterment of the site, the contribution the site will make towards housing supply, short-term employment and the contribution which would be

made by the potential occupiers. Therefore, as it is considered that the benefits of granting permission would outweigh the harm, there is no 'Footnote' 9 objection which means the application should be refused.

Similarly, in terms of Flood Risk, the development will be sited within Flood Zone 1, avoiding Flood Zones 2 and 3. The Environment Agency has raised no objections to the proposal, therefore there is no Footnote 9 objection to the scheme in terms of Flood Risk which would warrant refusal of the application.

The Council therefore needs to consider the application in the light of the "tilted balance" whereby permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole.

As Members are aware, there are three elements which need to be balanced to ensure that development will provide wider benefits in the public interest. The NPPF refers to these elements as environmental, social and economic benefits. These roles should not be taken in isolation because they are mutually dependent. In this respect, whilst there is the potential for harm to heritage assets, this would be less than substantial. This proposal is considered to deliver sustainable development as a result of the likely improvement of a site which makes no contribution to the area in terms of its impact on the historic buildings, public amenity and the river valley. The development will not only bring benefits in terms of environmental improvements to the redundant site, but also the provision of 48 new homes. This will in turn bring about economic benefits both during the construction phase, and in the longer term, as a result of the likely contribution from the future residents. These benefits together would also add positively to the social mix and vitality of Coggeshall.

Therefore, as the local planning authority considers that the potential public benefits could be considered to outweigh the harm, when applying the "tilted balance" the benefits that the scheme would bring, including some boost to housing supply, and short and longer term economic benefits, it is concluded that there are no significant or demonstrable impacts which would outweigh the benefits of this proposal, therefore the planning balance falls in favour of granting planning permission.

RECOMMENDATION

It is therefore RECOMMENDED that subject to the applicant entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:

1. Affordable Housing Provisions
2. Public Open Space Provision
3. Education Contributions (TBC)

4. NHS England

The Development Manager be authorised to GRANT planning permission under delegated powers subject to conditions and reasons set out below and in accordance with the approved plans.

Alternatively, in the event that a suitable planning obligation is not agreed with 3 calendar months of the date of the resolution to approve the application by the Planning Committee the Development Manager may use her delegated authority to refuse the application.

APPROVED PLANS

Site Location Plan Ref: 1564/PA01

Site Access and Visibility Splays Plan Ref: DWG-04

Site Plan 1564/PA22A

Floor Plan 1564/PA23A

Elevations Plan 1564/PA24A

Elevations Plan 1564/PA25A

Parameters Plan 1564/PA21

Conditions numbered with the prefix A are in respect of land identified as Site Plan 1564/PA22 Rev dated 11.2017 and Parameter Plan 1564/PA21 comprising of Plots 1-6 (hereafter referred to as the 'Detailed Component').

Conditions numbered with the prefix B are in respect of land identified as 'Outline Component' of application shown on drawings 1564/PA20, 1564/PA21, 1564/PA26 and P16-0556_10, dated 11.2017 and comprising of Plots 7-48 (hereafter referred to as the 'Outline Component').

Conditions numbered with the prefix C apply to the whole Development Site.

Where it is expressly stated, conditions may be discharged by submission for an individual Development Plot or, where relevant, outline permission.

Where a condition is being discharged on a Development Plot or outline permission, any pre-commencement requirement(s) shall apply separately to each Development Plot or Phase of development.

Any agreement or approval by the Local Planning Authority shall be given in writing.

A. Conditions relating to the 'Detailed Component' only:

Time Limits, approved drawings / documents and content of development

A.1 Details of the landscaping of the site

(hereinafter referred to as "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any

development takes place and the development shall be carried out as approved.

Application for approval of the reserved matters shall be made to the local planning authority not later than [3] years from the date of this permission. The development hereby permitted shall take place not later than [2] years from the date of approval of the last of the reserved matters to be approved.

Reason: The particulars submitted are insufficient for consideration of the details mentioned and also pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended).

- A.2 The Detailed Component shall not be constructed unless in accordance with the following drawings and documents submitted as part of the planning application:

Site Access Plan and Visibility Splays DWG-04
1564/PA22 Rev A Site Plan
1564/PA23 Rev A Floor Plan
1564/PA24 Rev A elevations
1564/PA25 Rev A elevations

Reason: For the avoidance of doubt and in the interests of proper planning.

- A.3 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwelling-house / provision of any building within the curtilage of the dwelling-house / alteration of the dwelling-house, as permitted by Classes A, B, C, D and E of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the local planning authority.

Reason: In order that the local planning authority may exercise control over any proposed future extensions / outbuildings in the interests of residential and/or visual amenity.

- A.4 Construction of Plots 1-4 shall not be commenced until samples of the materials to be used on the external surfaces have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved samples.

Reason: To ensure the use of appropriate materials having regard to the listed buildings on/adjoining this site.

- A.5 All electrical and telephone services to the development shall be run underground.

Reason: In the interests of visual amenity.

- A.6 All service intakes to dwellings, apart from gas, shall be run internally and not visible on the exterior.

Reason: In the interests of visual amenity.

- A.7 Prior to installation of any meter cupboards on the external elevations of Plots 1-6, details of their location, design and materials shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and shall be permanently maintained as such.

Reason: In the interests of visual amenity.

- A.8 Details of all windows and doors to Plots 1-6 shall be submitted to and approved in writing by the local planning authority prior to installation. The development shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity.

- A.9 Prior to first occupation of the development hereby approved details of all gates / fences / walls or other means of enclosure shall be submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the development hereby approved and shall be permanently maintained as such.

Reason: To enhance the appearance of the development and in the interests of visual amenity and privacy.

- A.10 The driveway/hard surface shall be constructed of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwelling and shall be permanently maintained as such.

Reason: To reduce the risks of flooding.

- A.11 Details of any proposed external lighting to the site shall be submitted to, and approved in writing by, the local planning authority prior to installation. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). All lighting shall be installed, maintained and operated in accordance with the approved details. There shall be no other sources of external illumination.

Reason: In the interest of promoting sustainable forms of development and minimising the environmental and amenity impact.

- A.12 Prior to construction details of the location and design of refuse bins, recycling materials storage areas and collection points shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details prior to the first occupation of each respective unit of the development and thereafter so maintained.

Reason: To minimise pollution of the environment and to safeguard the amenities of the locality and the appearance of the development.

- A.13 The development shall not be occupied until the rear courtyard parking area indicated on the approved plans, reference Drawing No. 1564/PA22 A has been provided in accordance with the approved plan and thereafter retained in such form.

Reason: To ensure adequate parking is provided within the site in accordance with the standards adopted by the local planning authority.

B. Conditions relating to the 'Outline Component' only:

Time Limits, approved drawings / documents and content of development

- B.1 Details of the:-

- (a) scale, appearance and layout of the building(s);
- (b) landscaping of the site

(hereinafter referred to as "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

Application for approval of the reserved matters shall be made to the local planning authority not later than [3] years from the date of this permission.

The development hereby permitted shall take place not later than [2] years from the date of approval of the last of the reserved matters to be approved.

Reason: The particulars submitted are insufficient for consideration of the details mentioned and also pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended).

- B.2 Excluding Plots 1-6, construction of any buildings shall not be commenced until samples of the materials to be used on the external

surfaces have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved samples.

Reason: To ensure the use of appropriate materials having regard to the listed building on/adjoining this site.

- B.3 All electrical and telephone services to the development shall be run underground.

Reason: In the interests of visual amenity.

- B.4 All service intakes to dwellings, apart from gas, shall be run internally and not visible on the exterior.

Reason: In the interests of visual amenity.

- B.5 Prior to installation of any meter cupboards on the external elevations of the dwellings hereby approved details of the location, design and materials shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details and shall be permanently maintained as such.

Reason: In the interests of visual amenity.

- B.6 Prior to installation, details of all windows and doors shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity.

- B.7 Prior to first occupation of the development hereby approved details of all gates / fences / walls or other means of enclosure shall be submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the development hereby approved and shall be permanently maintained as such.

Reason: To enhance the appearance of the development and in the interests of visual amenity and privacy.

- B.8 The driveway/hard surface shall be constructed of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwelling and shall be permanently maintained as such.

Reason: To reduce the risks of flooding.

- B.9 Details of any proposed external lighting to the site shall be submitted to, and approved in writing by, the local planning authority prior to installation. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). All lighting shall be installed, maintained and operated in accordance with the approved details. There shall be no other sources of external illumination.

Reason: In the interest of promoting sustainable forms of development and minimising the environmental and amenity impact.

- B.10 Prior to construction details of the location and design of refuse bins, recycling materials storage areas and collection points shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details prior to the first occupation of each respective unit of the development and thereafter so maintained.

Reason: To minimise pollution of the environment and to safeguard the amenities of the locality and the appearance of the development.

C. Conditions relating to the whole Development:

- C.1 No development or preliminary groundworks of any kind shall take place until a programme of archaeological trial trenching and palaeo-environmental investigation has been secured and undertaken in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.

A mitigation strategy detailing the excavation / preservation strategy shall be submitted to the local planning authority following the completion of this work.

No development or preliminary groundworks can commence on those areas containing archaeological deposits or palaeo-environmental deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.

The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: To enable full investigation and recording of this site of archaeological importance.

- C.2. Prior to commencement of the development a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan.

Reason: To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- C.3 No occupation of the development shall take place until the following have been provided or completed:
- a) Removal of all existing site access arrangements
 - b) The construction of the new access, as set out and in accordance with the Proposed Site Access and Visibility Displays Plan on drawing No. DWG-04
 - c) A minimum 2 metre wide footway along the proposal site's West Street frontage
 - d) Residential Travel Information Packs.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- C.4 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) prepared by Ardent Consulting Engineers, referenced 162060-01 and dated February 2017 and the following mitigation measures detailed within the FRA:

1. The proposed built development will be sited entirely within future Flood Zone 1.
2. Finished ground floor levels for dwellings and all more vulnerable development are set no lower than 28.76 metres above Ordnance Datum (AOD). The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

C.5 No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to a minimum 50% betterment on run-off rates currently discharging to the River Blackwater for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. Further investigation should be conducted into the catchment currently discharging into the river
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason:

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

C.6 No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason: The National Planning Policy Framework paragraph 103 and paragraph 109 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

- C.7 No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

- C.8 The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

- C.9 No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent environmental and amenity problems arising from flooding.

- C.10 No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent environmental and amenity problems arising from flooding.

- C.11 No development shall take place until a suitable Biodiversity Method Statement is submitted to and approved in writing by the Local Authority. The content of the method statement should include provision for protective measures before, and during development, a

lighting design strategy to reduce disturbance to bats and the proposed ecological enhancement of the site as outlined in the PEA, particularly though new habitat creation and the provision of bird and bat boxes which where appropriate should be integrated into the building design.

Reason: To safeguard any protected species that could be present on the site when construction commences and to ensure all impacts resulting from development are taken into account and mitigated. It will be necessary for this information to be supplied and agreed prior to the commencement of site clearance or development otherwise there would be a danger that valuable habitats used by protected species could be removed or irrevocably damaged.

- C.12 Development shall not be commenced until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment, has been prepared, and submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- C.13 No piling shall be undertaken on the site in connection with the construction of the development until a system of piling and resultant noise and vibration levels has been submitted to and agreed in writing by the Local Planning Authority and shall be adhered to throughout the construction process.

Reason: To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- C.14 No burning of refuse, waste materials or vegetation shall be undertaken in connection with the site clearance or construction of the development.

Reason: To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- C.15 No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:-

Monday to Friday 0800 hours - 1800 hours
Saturday 0800 hours - 1300 hours
Sundays, Public and Bank Holidays - no work

Reason: To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

Informatives:

1. Your attention is drawn to Condition A3 and B3 of this planning permission which removes permitted development rights for certain alterations/extensions/ development. You are requested to inform prospective purchasers of these restrictions and/or incorporate them in covenants relating to the properties.
2. In respect of Condition C10, the Biodiversity Method Statement should also include:

Badgers

An up to date badger survey is required to be completed after dense vegetation clearance and before development commences. Protection of badgers during the construction phase must be specifically addressed in the method statement.

Birds

Before commencing any development, the person undertaking the work must ensure that trees, hedges and shrubs do not contain any nesting birds. The applicant is reminded that, under the Wildlife and Countryside Act 1981 (as amended), it is an offence to remove, damage, or destroy the nest of any wild bird while that nest is in use or being built. Trees, hedges and shrubs are likely to contain nesting birds between 1st March to 31st August inclusive. Provision of suitable nest boxes and details of proposed locations must be detailed.

Bats

It is noted from the PEA that that some of the trees were unable to be assessed for bat roost potential and therefore any trees due for removal that are considered likely to have bat roost potential must be assessed by a suitably qualified ecologist, prior to removal. Provision of suitable bat boxes/roost boxes and details of proposed locations and enhancement of linear foraging features must be detailed.

Reptiles and Amphibians

The PEA states it unlikely that reptiles or Great Crested Newts are present but if found the workmen on site must be aware that all works must immediately cease and a suitably qualified Ecologist must be contacted for advice.

Invasive Species

Japanese knotweed, an invasive non-native species, has been identified on the site and it is an offence under the Wildlife and Countryside Act 1981 (as amended) to introduce, plant or cause to grow wild any plant listed in Schedule 9, Part 2. Full details of how this will be treated and eradicated should be included in the Biodiversity Method Statement.

Other

All vegetation/scrub clearance of the site should be carried out sensitively and with due care and consideration to hibernating animals in particular hedgehogs. Hedgehog friendly fencing to allow for foraging between gardens should also be implemented.

3. Your attention is drawn to the need to discharge conditions before development starts where it is a requirement of the condition/s. Development will be treated as having been commenced when any material change of use or material operation has taken place, pursuant to Section 56 of the Town and Country Planning Act 1990. A material operation means any work of construction in the course of the erection of a building, including: the digging of a trench which is to contain the foundations, or part of the foundations of a building; the laying of any underground main or pipe to a trench, the foundations, or part of the foundations of a building; any operation in the course of laying out or constructing a road or any part of a road; and any work of demolition of a building. If development begins before the discharge of such conditions then those conditions cannot be discharged and a breach of planning control will have occurred, which may result in enforcement action being taken.
4. Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. Furthermore, a fee of £34 for householder applications and £116 for all other types of application will be required for each written request. Application forms can be downloaded from the Council's web site www.braintree.gov.uk
5. In respect of Conditions A12 and B12 you are advised that the details should include provision for the storage of three standard sized wheeled bins for each new dwelling with a collection point no further than 25 metres from the public highway.
6. In respect of the contamination conditions, the contamination investigation, risk assessment and remediation strategy shall be undertaken by competent person(s) and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land

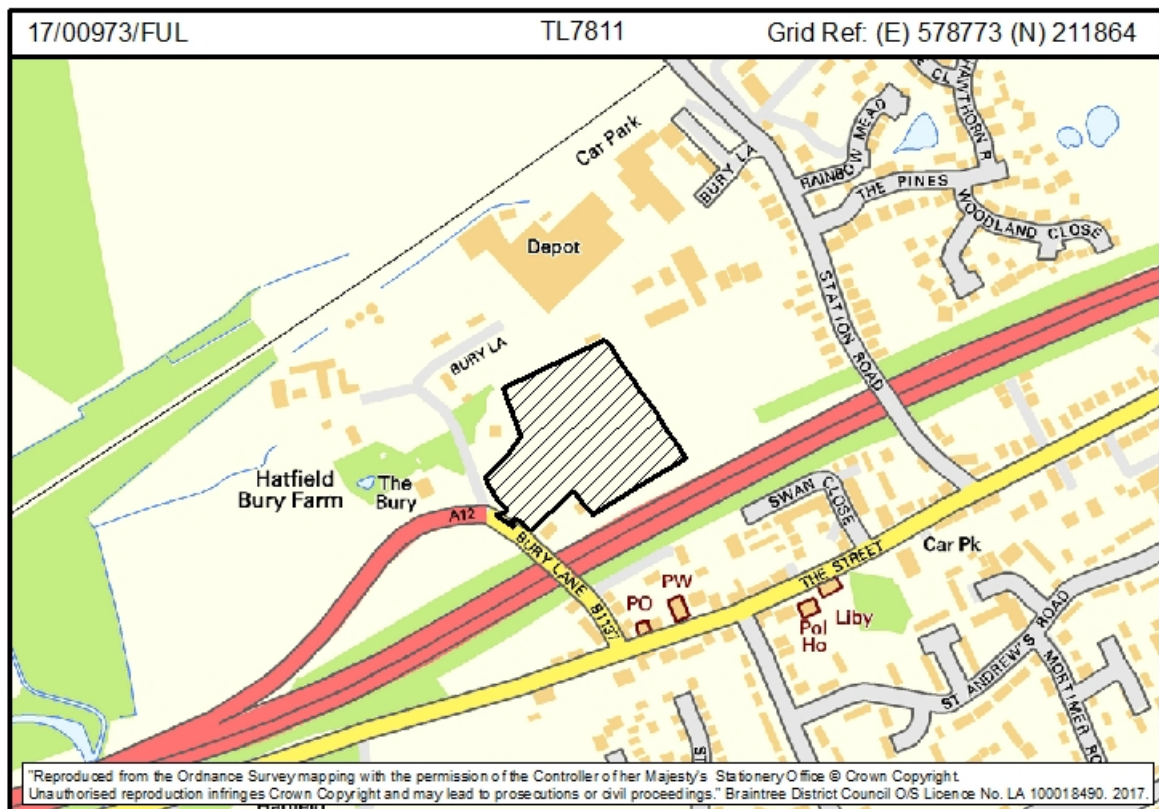
Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

TESSA LAMBERT
DEVELOPMENT MANAGER

PART A

APPLICATION 17/00973/FUL DATE 26.05.17
 NO: VALID:
 APPLICANT: Countryside Properties (UK) Ltd
 C/O Agent
 AGENT: Mr Sam Hollingworth
 Strutt & Parker LLP, Coval Hall, Rainsford Road,
 Chelmsford, CM1 2QF
 DESCRIPTION: Erection of 50no. dwellings with associated access,
 landscaping and public open space
 LOCATION: Land At, Bury Lane, Hatfield Peverel, Essex

For more information about this Application please contact:
 Mr Timothy Havers on:- 01376 551414 Ext. 2526
 or by e-mail to: timha@braintree.gov.uk



SITE HISTORY

15/00004/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Opinion Request - Proposed residential development of 48 dwellings	Screening/ Scoping Opinion Adopted	26.03.15
15/00463/FUL	Erection of 46 no. dwellings with associated garages, parking areas, gardens, amenity areas, public open space, access road, driveways, footpaths and associated external works and landscaping	Withdrawn	11.11.15

POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5th June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16th June to 28th July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9th October 2017. The Section 1 of the Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government. The Part 2 Draft Local Plan examination will take place later this year.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

“The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given) and;

The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.

Accordingly the Council can currently afford some weight to the emerging Publication Draft Local Plan 2017.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

National Planning Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP22	Accessible Housing and Lifetime Housing
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP52	Public Transport
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP55	Travel Plans
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP63	Air Quality
RLP64	Contaminated Land
RLP65	External Lighting
RLP67	Flood Risk in Undeveloped Areas
RLP69	Sustainable Urban Drainage
RLP70	Water Efficiency
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality

RLP74	Provision of Space for Recycling
RLP77	Energy Efficiency
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility
RLP93	Public Realm
RLP94	Public Art
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring
RLP138	Provision of Open Space in New Housing Developments

Braintree District Local Development Framework Core Strategy 2011

CS1	Housing Provision and Delivery
CS2	Affordable Housing
CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment
CS10	Provision for Open Space, Sport and Recreation
CS11	Infrastructure Services and Facilities

Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
SP3	Meeting Housing Needs
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP17	Housing Provision and Delivery
LPP33	Affordable Housing
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP49	Broadband
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP52	Health and Wellbeing Impact Assessment
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development
LPP63	Archaeological Evaluation, Excavation and Recording
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP69	Tree Protection
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity

LPP71	Landscape Character and Features
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP74	Climate Change
LPP75	Energy Efficiency
LPP77	Renewable Energy within New Developments
LPP78	Flooding Risk and Surface Water Drainage
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting
LPP82	Infrastructure Delivery and Impact Mitigation

Draft Hatfield Peverel Neighbourhood Plan 2015 – 2033

ECN3	Broadband and Mobile Connectivity
ECN5	Public Realm
HPE2	Natural Environment & Biodiversity
HPE5	Sport and Recreation Provision
HPE6	Protection of Landscape Setting
HPE7	Flooding & SUDs
FI1	Transport and Access
FI2	Parking
FI5	Developer Contribution
HO1	Design of New Developments
HO3	Affordable Housing
HO4	Minimum Garden Sizes
HO5	Creating Safe Communities

Supplementary Planning Guidance

Affordable Housing Supplementary Planning Document
 Essex Design Guide
 External Lighting Supplementary Planning Document
 Open Spaces Supplementary Planning Document
 Open Spaces Action Plan
 Essex Parking Standards Design and Good Practice 2009

Other Guidance

Landscape Character Assessment 2006
 Braintree District Settlement Fringes – Evaluation of Landscape Analysis June 2015

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought before the Planning Committee as the application is considered to be of significant public interest and represents a departure from the Development Plan. It is therefore an application which has significant

policy implications. The Parish Council also object to the application contrary to the Officer recommendation for approval.

NOTATION

The application site is located outside the Hatfield Peverel Village Envelope as designated in the Braintree District Local Plan Review 2005.

The application site is proposed for allocation for residential development for up to 45 dwellings under Policy LPP 31 of the emerging Draft Local Plan, as part of a wider comprehensive redevelopment area covering land between the A12 and the Great Eastern Mainline Railway.

This draft allocation was approved for consultation by Full Council on 5th June 2017 and the public consultation ended on 28th July 2017. The emerging Local Plan was submitted to the Planning Inspectorate in October 2017 with Part 1 of the public examination taking place in January 2018.

The application has been advertised as a departure from the Council's adopted Development Plan.

SITE DESCRIPTION

The application site is located outside but immediately adjacent to the Village Envelope of Hatfield Peverel which is located to the North. It measures approximately 1.8 hectares and consists of an agricultural field which is currently in use as a paddock providing grazing for horses.

The site includes a number of established trees and hedges which are located along its boundaries. It is bounded to the North by the former Arla Dairy site which at the time of writing has an extant planning permission for residential re-development. To the east the application site abuts the rear gardens of dwellings on Station Road. These gardens are extremely long and the section which directly abuts the application site is also proposed for inclusion within the wider comprehensive redevelopment area under the emerging Local Plan, with the erection of up to 20 dwellings.

To the south the site sits adjacent to the A12 and to the west to Bury Lane, from which vehicular access would be taken. Land to the west of the application site is again included within the wider comprehensive redevelopment area and at the time of writing has an extant planning permission for residential development.

There are also three existing dwellings located immediately adjacent to the application site's western boundary which are accessed from Bury Lane.

In terms of the wider context, the mainline railway lies to the north with open countryside beyond. Further countryside lies to the west with the majority of Hatfield Peverel itself being located to the east and to the south, on the far side of the A12.

PROPOSAL

The applicant seeks full planning permission for the erection of 50no. dwellings with associated access, landscaping and public open space.

Access to the site would be achieved via Bury Lane with a single access point leading into the site before splitting into two main internal access roads to serve the new dwellings on the site. Two areas of open space would be located toward the front of the site, one immediately adjacent to the site access from Bury Lane and the second at the point where the internal access road splits in two.

The proposed dwellings would be a mixture of detached, semi-detached and flatted units, with a large flatted block located at the southern periphery of the site.

The application is also supported by a suite of documents which include:

- Planning Statement
- Statement of Community Involvement
- Design and Access Statement
- Transport Assessment
- Flood Risk Assessment and Drainage Strategy
- Utilities Statement
- Contaminated Land Assessment
- Ecology Report
- Arboricultural Impact Assessment
- Air Quality Assessment
- Noise Assessment

CONSULTATIONS

Two consultations were completed, the first upon receipt of the planning application and the second following receipt of revised plans.

BDC Waste

No objection and no comments to make.

BDC Environmental Health

Environmental Health originally objected on noise grounds due to combined concerns about the level of proposed glazing insulation not being sufficient and concerns about the noise levels in private amenity areas. Following the receipt of further information and revisions to the site layout Environmental Health advise that some concerns regarding the proposed development still remain which are set out as follows.

External amenity space for Plots 1 and 2 and part of Plot 34 will not be below the upper guideline value of 55Db(a) 16 hour daytime average between 0700 and 2300 hours. The layout should review the provision of amenity space in these areas or consider moving residential property further from the A12 where space allows or reducing the number of units.

The façade calculations demonstrate that appropriate internal noise levels would only just be achieved for bedrooms facing the A12 even with windows closed. The calculations should allow at least a 2Db(A) tolerance, therefore the glazing specification needs to be revised to accommodate this. It is noted that there are no bedrooms facing the A12 in the flatted block which is positive in this regard.

No objection in relation to air quality following the submission of further information relating to the air quality report. Although the verification factors (a factor derived from local monitoring to adjust the modelled results) are not considered to be derived in the correct way it is unlikely to alter the report content overall and is therefore considered to be acceptable.

Conditions relating to hours of construction, details of any piling to be carried out on site; a dust and mud control scheme and precautionary contaminated land measures are required.

BDC Landscape

The Arboricultural Report prepared by DF Clark in 2017 and in particular Tree Protection Plan Ref. DFCP 2809 TPP 6.4.17 has been submitted. The report provides an accurate assessment of the arboricultural features and possible constraints on the site. Most of the vegetation cover comprises boundary trees and poor hedgerows which are of limited value within the context of the development of the site and what should be maintained. The items of more significant amenity and value to the local setting are within the curtilage of the adjacent properties and these can be protected by the implementation of the Tree Protection Plan referred to above. This can be covered by a condition requiring the protecting fencing requirements of the plan to be in place before development starts.

The Landscape scheme as submitted is acceptable but with the proviso on the following details with regards to the tree specification: T2 Tilia cordata should be specified as Greenspire (more appropriate as a form for urban setting) and T11 Amelanchier is a very small shrub like tree and a more significant planting is appropriate here such as Acer Campestre Streetwise.

BDC Ecology

The Phase 1 Habitat survey has been prepared by a CIEEM qualified ecologist and to the appropriate guidelines/protocols. The survey was carried out in winter so survey work for some protected species such as reptiles could not be completed.

The report makes suitable recommendations for minimising the risk of disturbing foraging/commuting bats and the focus here is the management of ambient light during and after construction. The approval should therefore include a condition requiring the applicant to prepare a suitable Lighting Strategy which addresses the points raised in section 4.11 of this report. The strategy should be approved and in place before development commences on site.

The report also identifies the possible presence of slow worms along the eastern edge of the site. Further survey works should be undertaken to update these records and the information used to provide suitable protection and mitigation. The applicant should be required to provide a Construction and Environment Management Plan which will need to include reference to the updated survey information and how this will be addressed by the protective measures identified in the Plan. Both of these items can be addressed by condition.

BDC Housing Research and Development

After revisions this application now seeks detailed approval for a scheme of 50 residential dwellings including 20 affordable homes. This is compliant with affordable housing Policy CS2 of the adopted Core Strategy.

The housing and tenure mix specified in the table below and illustrated on submitted Tenure Plan number 8424/47 Rev B is considered an appropriate mix to match evidence of housing need.

Affordable Housing Unit Mix	No.	Affordable Rented Tenure	Shared Ownership Tenure
1 Bed FOG -2 person	2	2	0
2 bed Flat - 4 person	12	6	6
2 Bed FOG – 3 person	2	2	0
2 Bed House – 4 person	3	3	0
3 Bed House – 5 person	1	0	1
Total	20	13	7

We are supportive of this application because it provides opportunity for a significant number of new affordable homes to be delivered which will assist the Council in addressing housing need.

ECC Historic Environment Officer (Archaeology)

No objection subject to standard archaeological investigation conditions. The site is considered to have a high probability for remains associated with the original medieval village of Hatfield Peverel.

ECC Education

A development of this size can be expected to generate the need for up to 4.5 early years and childcare places; 15 primary school and 10 secondary school places. The proposed development is located within the Hatfield Peverel and Terling ward. Although there is some non-funded Early Years and Childcare capacity in the area, the data shows insufficient free entitlement places to meet demand from this proposal. Additional places will be needed to expand provision within the ward. This equates to £14,519 per place and so a developer contribution of £65,336 index linked to April 2017 is required.

The development is in the priority admissions area of Hatfield Peverel Infant and St Andrew's Junior Schools. Both Schools are full in some year groups and, although there is some surplus capacity overall, there is concern that not all the children moving to this development will be able to gain a place. Our current data suggests that there are 28 surplus places across the seven year groups at the two schools. Department for Education guidelines suggest 5% of capacity should remain unfilled to facilitate mid-year admissions and provide for parental choice. The two schools offer a total of 420 places and, thereby, 21 should remain unfilled.

As you will be aware, there are a significant number of development proposals within Hatfield Peverel and it is now clear that, if permitted, this cumulative impact will require additional primary school places to be provided. This proposal alone can be expected to house 42.6 new primary school pupils.

A new school site on the Lodge Farm development has been secured and this would be within walking distance of the above proposal. A financial contribution was also secured and I thereby advise, on behalf of Essex County Council, that a similar formula based sum is appropriate in this case. This equates to £15,826 per place and index linked to April 2017. So based on demand generated by this proposal set out above, a developer contribution of £237,390, index linked to April 2017.

With regard to secondary places, prior to the implementation of the revised Community Infrastructure Levy Regulations on the 6th April 2015 the County Council would have sought a developer contribution from this proposed development for secondary school places. However, the implementation of the revised Regulations now restrict the pooling of contributions for a specific item of infrastructure, such as the expansion of a school, to contributions from five separate planning obligations. Under these changed circumstances the County Council has decided not to request a contribution for the provision of additional secondary school places from this proposed development. This is because the scale of this development is relatively small and the impact on pupil places is limited. Seeking contributions from a number of small developments might, in the future, preclude the County Council from seeking a contribution from a larger development, should there already be 5 contributions allocated to a particular project to add school places in the area.

ECC Flood and Water Management

No objection following the submission of additional drainage strategy information. Require standard conditions relating to the submission of a detailed surface water drainage strategy; the submission of a scheme to minimise the risk of offsite flooding during construction; the submission of a Maintenance Plan for the proposed SUDs system and a requirement for the keeping of a maintenance log of this system.

ECC Highways

No objection. From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to planning conditions or a S106 Agreement requiring:

- The removal of the existing farm/field access and the construction of a priority junction off Bury Lane to enable access to the proposal site. Priority junction to include but not be limited to a minimum 5.5m wide proposal site access road carriageway with 2no. minimum 2m wide footways, maximum 10m kerbed radii with dropped kerbs/tactile paving and a 90m x 2.4m x 90m visibility splay;
- Upgrade to ECC specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of development);
- Provision and implementation of a Residential Travel Information Packs in accordance with ECC guidance;
- The submission of a Construction Traffic Management Plan;
- Only cycle and pedestrian access (no vehicular) connections between the proposal site and land immediately to the north.

Highways England

No objection subject to a condition stating that no part of the proposed development shall be brought into beneficial use or occupation until the highway improvements (signs and slow markings) to the A12 slip road have been carried out in accordance with the submitted drawings (or alternative layout form having no less effect in terms of highway safety) subject to such design modifications as the appropriate Highways Authority may decide to make.

NHS

NHS England Midlands and East (East) have considered this application and can advise that as there are already 4 requests pending in this area and a capped (five) number of capital contribution requests that can be obtained for each infrastructure project; there is not an intention to seek Primary Healthcare mitigation on this occasion.

The scale of this particular proposed development has also been considered.

NHS England would therefore not wish to raise an objection to the proposed development.

Anglian Water

The foul drainage from this development is in the catchment of Witham Water Recycling Centre that will have available capacity for these flows. The sewerage system at present has capacity for these flows. The proposed method of surface water management does not relate to Anglian Water operated assets.

Hatfield Peverel Parish Council

Two consultation responses were received from the Parish Council, one in response to the originally submitted scheme and one in response to the revised scheme.

Consultation Response 1

Objection. After careful consideration the Parish Council cannot support this application due to potential over-development within the Parish.

This site was rolled over from the Local Development Framework Plan to the new Local Plan which was supported by the Parish Council.

The former Arla Dairy site was granted outline planning permission in July for up to 145 dwellings. The Arla site is proposed in the emerging Local Plan and is also allocated in the emerging Neighbourhood Development Plan (NDP).

However, prior to the Arla determination, land at Stonepath Meadow and Gleneagles Way were both granted outline planning permission for up to a total of 260 dwellings. Both sites, were not supported by the Parish Council in the call for sites, and are not proposed in the emerging Local Plan nor the NDP.

If Sorrells Field is granted planning permission together with Bury Farm, the Parish will not be sustainable due to over development. The numbers far exceed what is evidenced in the emerging NDP and, also that required from this Parish in the emerging Local Plan for the District.

There is conflict with the emerging Local Plan as well as the Neighbourhood Development Plan in relation to development within our Parish. Determination of this application should be delayed until the outcome of the Call In by the Secretary of State is known for both Stonepath Meadow and Gleneagles Way.

Despite the developer meeting with the Parish Council and NDP team, the proposed housing mix does not address the needs of the community expressed in the NDP and resulting from extensive surveys of the population.

The potential for two junctions being very close to each other to serve Bury Farm and Sorrells Field off the A12 slip road is both dangerous and of concern.

The traffic impact is of concern in Bury Lane from proposed development in the identified comprehensive development area in the emerging Local Plan. In addition, there is a continuing increase in traffic coming off the A12 slip road at excessive speed and going through the village to surrounding districts.

I refer particularly to Maldon, the proposed development at Heybridge and other developments along this road. The Duke of Wellington roundabout and Maldon Road, even when improved, will just become gridlocked.

The buffer zone to mitigate the noise and pollution from the A12 has decreased from earlier layout plans.

The application is premature with the uncertainty of the A12 widening scheme. The preferred options will be published by Highways England at the end of the Summer 2017.

Consultation Response 2

Objection. Councillors believe that it is still premature for the application to be determined while the outcome of the A12 improvements are unknown and the uncertainty over the 3 bridges crossing the A12 including Bury Lane bridge. Highways England have suggested that when works are carried to the Station Road bridge, traffic will be temporarily diverted through the former Arla site to which access is gained via Bury Lane.

Over the past year more cars are parking in Bury Lane which is causing problems for both residents and motorists in Bury Lane.

Councillors are still concerned with the proposed access and egress of the site being within a very short distance of the private Bury Lane junction which is due to become busier following recent planning permission granted on Bury Farm, and the speed at which vehicles come up the slip road off the A12. An earlier application for residential development on the opposite side of and adjacent to the A12 was refused by BDC and later dismissed at Appeal due to noise and air quality.

The Inspector considered future residents would be subjected to unreasonable levels of noise and air quality which would have an unacceptable effect on their living conditions. Councillors believe the same will apply to future residents of this proposed development.

The Inquiry in relation to the 'call in' by the Secretary of State of Land at Stonepath Meadow and Gleneagles Way was held in December last. The Inspector's report will be submitted to the Secretary of State on or before the 2 March 2018.

Both the Arla site and Bury Farm have been granted outline Planning Permission for up to 191 dwellings which more than meets the identified need through the Neighbourhood Development Plan (NDP).

Councillors are extremely concerned with over development within the village, and the infrastructure already being under considerable pressure. They would again ask that Sorrells Field be delayed until determination of the Stonepath Meadow and Gleneagles Way sites by the Secretary of State is made.

The revised plans show a different mix to the housing types and increase in garden sizes, but there are still no bungalows proposed on the development. Bungalows and starter homes have been identified as a need through the NDP, and both BDC and the applicant were advised of this need.

Diane Wallace – Parish Councillor (Individual comment submitted)

Objection. Although this site was rolled over from the Local Development Framework to the new Local Plan which was previously supported by the parish Council, with all the recent outline planning permissions (Stonepath Drive; Gleneagles Way) the village cannot now sustain further development.

Conflict with emerging Local Plan and the Neighbourhood Development Plan.

Determination should be postponed until the outcome of the request for call in by the Secretary of State is known for Stonepath Drive and Gleneagles Way.

Housing mix doesn't address the needs of the community. No bungalows, no starter homes. Mix does not cater for families wishing to downsize.

Potential for two junctions being located so close to serve the Bury Farm development and this development off the A12 slip also is dangerous. Traffic impact from proposed development within the Parish and also traffic exiting the A12 through the village to other Districts such as Maldon with the proposed Heybridge development will be gridlock.

Buffer zone to mitigate noise and pollution from the A12 has decreased from earlier plans and the apartments appear to be that buffer for the other dwellings.

Uncertainty of the A12 widenings scheme – preferred options will be known at the end of Summer 2017.

REPRESENTATIONS

Two consultations were carried out as the applicant originally proposed a development of 52 dwellings. Following intensive discussions with Officers a revised scheme was submitted with an amended layout and a total of 50 dwellings.

Original Scheme

In response to the original consultation 9 letters of objection were received. The main reasons of objection are summarised below:

- Safety concern with proposed access. My driveway (1 Sorrells Cottages) is located a few meters from the proposed access and we have regular near misses from vehicles coming off the A12. Also regular tailbacks across the A12 bridge towards the Village at peak times. This causes problems as there are always cars parked on Bury Lane making it a one way lane in parts. Presumably there will be a footway from the new development to the railway station which will make parking on the bridge worse.
- Development is no longer part of the village. The feeding frenzy of BDC Planners and their political masters to destroy Hatfield Peverel with massive over development is a scandal. I have no confidence in professional/technical analysis of development by BDC anywhere in the village. Current political approach to development makes an absolute mockery of all the hard work and professional analysis put into the Neighbourhood Development Plan.
- Access and egress of this site and the adjacent Bury Farm site will predominately be via the A12 slip road. Highways England public consultations on widening the A12 identified that this slip road suffers from standing traffic back onto the A12 during rush hour and as such is a dangerous slip road. It is their desire to close this slip road if/when the A12 widening goes ahead. S278 Agreement has been signed in March 2017 by Highways England with the developer regarding some slip road costs as currently exists but what of the future?
- Development traffic will worsen the current A12 slip road congestion.
- What current and contingency plans will BDC implement once the slip road closes for traffic from the new development or will the village suffer the ever increasing incompetence that BDC Planners are currently exhibiting regarding lack of infrastructure planning.
- Concern regarding the junction between The Street and Bury Lane which is particularly unsuitable from HGV's with poor visibility.
- Existing air pollution caused by vehicles waiting to allow vehicles from Bury Lane to filter into The Street would be worsened.
- Premature to consider this development before the A12 widening scheme is decided. Edge of this development would be very close to a modified A12 cutting and there are already noise and air pollution concerns on the site.
- Cumulative impact of all this new development in the village could result in gridlock in future years.
- Site is outside the development boundary and isn't supported by the Parish Council or emerging Neighbourhood Plan.
- Contrary to Neighbourhood Plan
- No bungalows offered.

- Old Arla Dairy site sufficient to provide the Parish's need. Extra development will not be to serve local people.
- Development will make it even more difficult for us to access our property by car during the busiest times (Sunnyside, Station Road).
- Developer has not worked with the community.
- Combined impact of new developments will change the very nature of the village.
- Object to plans for 3 storey buildings which won't be in keeping with the village.
- Local services are already stretched. Doctor's Surgery is already a shared service between Hatfield Peverel and Boreham.
- We understand the requirement for new housing however only a small percentage will be affordable and most will be snapped up by commuters from London.
- Looks as though proposed access would cut into land owned by 1 & 2 Sorrells Cottages
- Object to living next to the proposed substation due to noise and health concerns.
- Keen to understand if the public art/substation located next to our property has the potential to become a late night drinking area for teenagers or if it will be a water feature as originally proposed.
- On 18th March 2016 Councillor David Bebb indicated that BDC expected Hatfield Peverel to provide 100 new houses over the period to 2033. Residents now face five times that with a 28% increase in housing stock in the Parish, 36% increase in the Village itself.
- Local Junior and Primary Schools are close to capacity.
- S106 contributions won't help as residents will still have to travel outside the village to access services and facilities as schools/Doctor's Surgery can't expand.
- Children can't walk alongside the A12 so further school traffic will be generated.
- More traffic will be drawn to the Railway Station in addition to the 1,200 dwellings to be built at Lodge Farm and Woodend Farm.
- Draw attention to Section 2 of Publication Draft Local Plan June 2017 as follows:
 - Page 10: Introduction – item 2.2
 - Page 28: Development Boundaries – item 5.15 & 5.18 and Page 29: Policy LPP1 – Para. 2
 - Page 24: Key Service Villages – item 5.6
 - Page 20: Vision & Objectives – paragraph 5, first sentence

A technical Highway Objection was also submitted (Intermodal Transportation Ltd) on behalf of an adjacent landowner who owns the Bury Farm site with a particular focus on safety issues relating to the close proximity of the proposed development access onto the A12 slip road and the existing junction between Bury Lane and the slip road. This was sent to both Highways England and Essex County Council Highways for review.

Revised Scheme

No further comments were received in relation to the revised scheme.

REPORT

Principle of Development

5 Year Housing Land Supply

The NPPF requires that Councils seek to boost significantly the supply of housing, and contains policy guidance to support this. Under paragraph 47 of the NPPF the Council is obliged to have plans which "... meets the full objectively assessed needs for market and affordable housing", together with an additional buffer of 5%. The Council is specifically required to produce and demonstrate its building trajectory to show how there can be the delivery of a five-year supply of housing.

The Council is currently unable to demonstrate a 5 year housing land supply. The scale of the shortfall in housing supply is a matter that has been the subject of argument at recent Public Inquiries relating to residential developments in the District. A key aspect of the argument has been whether to apply the "Sedgefield approach" or the "Liverpool approach" to the calculation of the shortfall. The difference between the two is that under the Sedgefield approach, Local Planning Authorities make provision for any undersupply from previous years over the next 5 years (i.e. front loading) whereas the Liverpool approach spreads provision for the undersupply over the full term of the Plan (i.e. reducing the level of supply needed in the first five years when compared to the Sedgefield approach). The conclusion reached by two Planning Inspectors (ref. appeal decision Land at West Street Coggeshall dated 12 July 2017, and Land at Finchingfield Road Steeple Bumpstead dated 6th September 2017) is that although the District Council advanced the Liverpool approach, the Sedgefield approach should be applied to the calculation until there is greater certainty with the Local Plan.

These appeal decisions are a material consideration in the determination of residential development proposals and it must therefore be acknowledged that whilst the District Council's forecast housing supply (as at 30 December 2017) is considered to be 5.15 years based on the Liverpool approach, it is 4.03 years based on the Sedgefield approach.

The NPPF provides specific guidance in relation to the determination of planning applications in such circumstances, stating at paragraph 49 that *'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'*.

The impact of this is demonstrated at paragraph 14 which states that “At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development** which should be seen as a golden thread running through both plan-making and decision-taking.....

For **decision-taking** this means (Footnote: unless material considerations indicate otherwise):

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate that development should be restricted (Footnote: for example, those policies relating to sites protected under the Birds and Habitat Directives and/or designated as Sites of Special Scientific Interest, land designated as Green Belt, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion).

The lack of a 5 year housing land supply is therefore a material consideration which must be a significant factor in the consideration of the planning balance as set out at paragraph 14 of the NPPF.

Site Assessment

The Application Site and the Emerging Local Plan

The application site is located adjacent to but outside the Village Envelope of Hatfield Peverel as identified in the adopted Local Plan. The land is therefore currently designated as countryside and the applicant's proposal to develop the site in a residential capacity is a departure from the adopted Development Plan.

However, the new draft Local Plan proposes to allocate the site for residential development for up to 45 dwellings under draft Policy LPP31. Draft Policy LPP31 covers a wider comprehensive redevelopment area on land between the A12 and the Great Eastern Mainline and includes the adjacent Arla Dairy site.

It should be noted that Policy LPP31 has been subject to one round of public consultation and accordingly in light of para. 216 of the NPPF must be considered to carry less weight than other policies which have been subject to two rounds of public consultation and, where required, objections resolved.

The current proposal to develop this site for 50 dwellings is therefore partly in accordance with the emerging Local Plan, although it is not comprehensive in

scope and is for a slightly higher number of units than the up to 45 dwellings proposed under the emerging Local Plan.

This proposal considers only one part of the comprehensive development area. However, it should be noted that the emerging Policy does not require the submission of a comprehensive scheme/masterplan for the entirety of the comprehensive development area. The proposed site layout has specifically been designed to be compatible with both the adjacent Arla Dairy site which abuts its northern boundary and the land to the rear of Station Road which abuts its eastern boundary and would need to be accessed through the application site.

Therefore it is possible to ensure that the overall Comprehensive Re-development Area is developed as a comprehensive scheme notwithstanding that development is brought forward by way of separate applications. Officers are satisfied that the development of adjacent sites which also lie within the Comprehensive Re-development Area would not be prejudiced as a result of this proposal and moreover the development of this site would not prejudice the delivery of the other aspirations of the emerging policy.

Draft Policy LPP31 goes on to set out a number of points which the development of the sites identified as being part of the Comprehensive Redevelopment Area should address. Access and capacity improvements to Station Road Car Park are identified and the recently granted planning permission (16/02096/OUT) for the re-development of the former Arla dairy site has sought to address access improvements through the associated s106 Agreement. Improvements to the capacity of the Station Car Park are not a matter which, in Officer's opinion can be justified under the Community Infrastructure Levy tests as being necessary to make this development acceptable in planning terms nor could the application site physically provide such measures.

A suitable link road between Bury Lane and Station Road to be agreed with the Highway Authority is also required by the draft Policy. However, in considering the adjacent planning applications for the re-development of the Arla Dairy site and the development of the Bury Farm site, as well as the current planning application the Highway Authority have advised that they would not support such a link road as they consider it would be used as a cut through from the A12 slip road to Station Road to the detriment of the future residents of the Arla Dairy site and in this case the current application site. Given the advice of the Highway Authority it is considered appropriate to deviate from the emerging policy and not seek to secure the link, giving significantly less weight to this element of the policy.

Contributions towards highways enhancements on Bury Lane, including safer access from the A12 slip road are also listed as being required. The adjacent development at Bury Farm is required to implement a scheme of highway safety works to the junction of Bury Lane with the A12 slip road. Highways England have confirmed that the current scheme is also required to implement these works and a condition is therefore necessary to ensure that these works

are completed. Officers therefore consider that the aim of the policy will be met in this regard.

Contributions towards enhanced pedestrian and cycle access on Station Road and Bury Lane linking to The Street are also required by Policy LPP31. However, the Highway Authority have advised that they do not consider that there is the physical scope to provide such works and that they do not wish to require these by way of condition or s106 Agreement. They have instead requested the upgrading of the two bus stops which would best serve the development (details to be confirmed with ECC Highways) as set out in the s106 Heads of Terms below. Given the advice of the Highway Authority on this matter it is considered appropriate to depart from this element of the emerging policy to which significantly less weight is given.

Draft Policy LPP31 goes on to state that the provision of structural landscaping to mitigate adverse noise and air pollution from the A12 and to provide visual separation from the highway is required. The application site sits in close proximity to A12 and the applicant has found that the use of structural landscaping is, in itself insufficient to mitigate noise from this road. Built form has instead been used and without this noise levels inside the site would be unacceptable. This approach has been a technically led exercise unlike the requirement of the draft Policy to provide structural landscaping as a noise/air pollution mitigation method and is discussed in more detail in the below report. Officers therefore consider that it is appropriate to depart from this element of the emerging policy to which significantly less weight is given.

Finally, draft Policy LPP31 states that policy compliant affordable housing provision; financial contributions towards early years and childcare provision; financial contributions towards primary and secondary education facilities and towards community facilities including health provision should be made by the identified sites within the comprehensive redevelopment area. With the exception of a contribution towards secondary school provision; (which has not been requested by the County Council for the reasons set out above in their consultation response) and healthcare (which has not been requested by the NHS for the reasons set out in their consultation response) the identified contributions would be made by this development and have been set out in detail in the s106 Heads of Terms below which are considered to reasonably meet the policy requirements. Officers also consider that with regard to secondary school contributions a comprehensive scheme for the entire comprehensive development area would, on a current policy and needs basis be unlikely to be required to make a secondary school contribution for similar reasoning.

Having considered this application in relation to the requirements of draft Policy LPP31, Officers do not consider that the fact that this site has been brought forward as a freestanding planning application would result in the loss of any benefits which could have been achieved if the site had been brought forward as part of an application covering the entire comprehensive redevelopment area.

It is therefore necessary to consider the application on its merits, taking into account the fact that it is a departure from the adopted Development Plan but is partly in accordance with the emerging Local Plan when assessing the overall planning balance, the proposed number of units and the acceptability of the development on its merits.

Hatfield Peverel Neighbourhood Plan

Hatfield Peverel's Neighbourhood Area was designated in March 2015. The draft Neighbourhood Plan has been the subject of a public consultation under Regulation 14 of the Town and Country Planning Act with the consultation ending on 30th September 2016.

Following this the Plan was submitted to Braintree District Council under Regulation 15 of the Town and Country Planning Act for review prior to the commencement of the second public consultation under Regulation 16 which finished on 17th July 2017. The NDP has now been submitted for examination and the Council appointed an examiner on 15th August 2017.

The Council has not yet been advised when the examination for the NDP will take place or if it will be undertaken via written representations or a hearing. However, the Council has been informed by letter dated 5th September 2017 that the examiner requires further work be undertaken in order to ensure the submission version of the NDP meets the 'basic conditions' as set out in paragraph 8 (2) of Schedule 4B of the 1990 Town and Country Planning Act. The additional work relates to the need to carry out a Habitat Regulation Screening Assessment of the NDP and to re-visit the Strategic Environmental Assessment to deal with the issues of alternative sites, their sustainability and why the Plan allocates the former Arla Dairy site for re-development under draft Policy HO6 and the effects of that allocation on the environment.

Once this additional work has been completed there will be a further period of public consultation which is due to commence in May 2018. The Council currently anticipates that the draft NDP will be considered by Full Council in December 2018 with a view to agreeing that it should go to referendum early in 2019. However, this is dependent upon the further work required by the examiner as identified above being completed to the satisfaction of the examiner to enable the examination of the NDP to take place.

The NDP is not yet adopted and has not yet been through the examination or referendum process. It should be noted that it is subject to unresolved objections from several parties. The amount of weight afforded to the NDP is therefore assessed in light of Paragraph 216 of the NPPF and whilst it may indicate a direction of travel for policy, the Council currently considers that it can be given only limited to moderate weight as a material consideration in the determination of the current planning application as per Chapter 20, Part 1 of the Neighbourhood Planning Act 2017.

The submission version Neighbourhood Plan directly allocates (with an associated Policy) only one site, the former Arla Dairy site for residential

development. The Parish Council have objected to the current application and have stated in their objection that outline planning permission has been granted for both the former Arla Dairy site and the adjacent Bury Farm site for up to 191 dwellings in total which more than meets the identified need through the Neighbourhood Development Plan (NDP). They have also identified that the outcome of the Inquiry in relation to the planning applications for residential development at Stonepath Drive and Gleneagles Way are still pending.

The submission version Neighbourhood Plan acknowledges the emerging Local Plan's proposed site allocations, which include the allocation of the application site for housing and contains a map at page 55 which identifies the application site as being included within the emerging Local Plan Comprehensive Redevelopment Area as a (proposed) allocated housing site. However, the submission version Neighbourhood Plan does not specifically seek to allocate the application site for residential development and the current application is therefore contrary to the Neighbourhood Plan in this regard.

However, given that limited to moderate weight only can be applied to the emerging Neighbourhood Plan the development must still be assessed against the presumption in favor of sustainable development as set out at paragraph 14 of the NPPF. In making an assessment of the planning balance for the current application the NPPF must be given greater weight than the emerging Neighbourhood Plan and the application must be considered accordingly. The fact that the District Council's own draft Local Plan does specifically seek to allocate the site for residential development must also be taken into account.

Location and Access to Services and Facilities

The application site is located immediately adjacent to but outside the Village Envelope of Hatfield Peverel as identified in the adopted Local Plan which abuts its northern boundary. Hatfield Peverel is identified in the adopted Core Strategy as a key service village, one of six within the District. Key service villages sit below main towns but above other villages within the District's settlement hierarchy and are defined in the Core Strategy as *'large villages with a good level of services, including primary schools, primary healthcare facilities, convenience shopping facilities, local employment, frequent public transport to higher order settlements and easy access by public transport to secondary schools'*. The designation of Hatfield Peverel as a key service village has been carried forward into the draft Local Plan.

It is therefore accepted that at the strategic level the village of Hatfield Peverel is identified as being one of the more sustainable locations within the District, acting as a local centre for its surrounding areas, in common with the other key service villages.

The site itself is considered to be positioned in a sustainable location, an important factor in the proposed allocation of the site for residential

development in the emerging Local Plan. Hatfield Peverel, as a key service village provides a wide range of facilities and services which are easily accessible from the application site by foot or bicycle. These include for example a library; recreational ground; Doctors and Dentists Surgeries; Pharmacy; Nursery; several Pubs; a church; two food stores; an Indian takeaway and Infant and Junior Schools.

Hatfield Peverel Railway Station, which runs to London Liverpool Street via Chelmsford at a rate of 3 services per hour during peak periods is located approximately 360m from the site. Currently, there is no access to the Station from the application site through the Arla Dairy site meaning that the railway station can only be accessed from Station Road, at a distance of approximately 1km. However, the Arla Dairy site has an extant planning permission for residential re-development. The site has already been cleared in preparation for re-development and Officers consider that this site will come forward shortly. The railway station would then be only approximately 360m walking distance from the current application site.

With regard to bus services, the nearest bus stop is located on Station Road, approximately 280m from the proposed site access to Bury Lane, providing regular links to Chelmsford, Colchester and Maldon in addition to providing school only services.

Design, Appearance and Layout

Both Policy RLP90 of the adopted Local Plan and Policy LPP55 of the emerging Local Plan require a high standard of design and layout in all developments. Policy CS9 of the Core Strategy requires 'the highest possible standards of design and layout in all new development'. At the national level, the NPPF is also clear in its assertion (para 56) that 'good design is a key aspect of sustainable development' and that (para 58) developments should 'function well and add to the overall character of the area...establish a strong sense of place....are visually attractive as a result of good architecture and appropriate landscaping'.

The applicant seeks full planning permission for the erection of 50 dwellings and has submitted a detailed site layout plan with supporting house type elevations and hard and soft landscape plans. The gross density of the scheme sits at just under 28 dwellings per hectare. The scheme was revised following lengthy and detailed design and layout discussions with Officers during the course of the application.

The revised layout proposes a single access point from Bury Lane which leads into the site as a single access road before splitting into two. Two areas of informal open space are located close to the site entrance. The majority of the site area is occupied by houses with a large flatted block sitting to the south of the access road.

The development proposes a mix of house types ranging from 1 and 2 bed flats to 2, 3 and 4 bed houses. The proposed house types are two storey

buildings and are traditional in their nature. Some have chimneys and the materials proposed include brick (red multi and buff stock), boarding, render and grey/red pan tiles. Timber detailing is also proposed for example for front porches.

In terms of layout, the development is compliant with the Essex Design Guide in terms of back to back distances and garden sizes for the proposed houses. House types are also considered by Officers to be acceptable and two areas of public amenity space are provided on the western side of the site which exceed the size requirements of adopted Policy CS10.

The proposed flatted block is located toward the southern side of the site and would be a part two storey and part three storey building. Its design and layout has been the subject of a prolonged and detailed design and layout critique by Officers, to which the applicant has responded positively. The parking is positioned to the rear and the private amenity space to the front. Usually Officers would expect the reverse to be true, however this is a challenging site due to its proximity to the A12 and a bespoke design and layout solution has been required to achieve an acceptable solution. Locating the amenity space to the front of the building shields it from the A12 road noise and provides residents with a much quieter environment which would be genuinely usable.

Significant thought has been put into ensuring that this amenity space is also private, given its position on the front side of the flatted block. The depth of the space was markedly increased and its area now exceeds that required by the Essex Design Guide. All access points to this private space from the street were also removed so it is now accessible only via the flatted block itself.

The boundary treatment would consist of a 2m high brick wall to provide complete privacy with a hedge planted in front to soften the visual impact and ensure a high quality street scene. The space itself would contain bonded gravel pathways and usable seating areas to provide a high quality private amenity space for residents of the flatted block. The interior layout of the flats has been laid out so that living room and bedroom windows would have an outlook onto this private amenity space and many of the flats also benefit from their own private balcony.

On the opposite side, ground floor units would be provided with defensible space to ensure that ground floor windows were protected from passers-by. In addition, the windows on this side of the building would consist only of bathrooms, kitchens and hallways/lobbies. Overall, Officers consider that the proposed flatted block presents a positive design solution for the site and in its revised form will provide a genuinely usable and high quality layout for residents with a fully private amenity space.

Pedestrian and cycle access through to the adjacent Arla site is accommodated in the layout to ensure permeability and ease of access to the rail station and would be required by way of a Section 106 Agreement.

In terms of parking provision, the development would consist of 48 dwellings with 2 or more beds and two dwellings with 1 bedroom. The Essex Parking Standards require 1 space for 1 bed dwellings and 2 spaces for 2 or more bed dwellings giving a total requirement of 98 spaces. In addition, visitor parking is required at a rate of 0.25 spaces per dwelling giving a total of 13 visitor spaces and an overall total of 111 spaces. The scheme proposes 114 spaces, marginally exceeding the required level of parking provision and is considered acceptable in this regard. The majority of parking for the proposed houses is on plot with a number of house types including garages.

With regard to unit numbers, the applicant proposes 50 dwellings, 5 more than the 45 proposed in the Council's emerging Local Plan, however Officers consider that the applicant has demonstrated that 50 dwellings can be accommodated on the site.

Noise

The site is located in close proximity to the A12 and as discussed above a bespoke design solution has been used to ensure that future residents will achieve an acceptable standard of amenity.

The flatted block has been positioned on the southern side of the site to provide a physical noise barrier from the A12. Built form is the most effective form of noise barrier and avoids the need for extensive bunding and large scale acoustic fences. In order for the proposed solution to be acceptable Officers considered that it was essential that the occupants of the flatted block would achieve an acceptable standard of amenity both in terms of internal and external (private amenity areas) noise levels.

Internally, the layout has specifically been designed to ensure that all units are dual aspect with kitchen, bathroom and hallway/lobby windows only being positioned on the A12 side of the building with bedroom and living room windows being positioned on the opposite side. This is important and means that future residents will benefit from dual aspect units but with their living and bedroom windows opening onto the protected side of the development.

In addition, the private amenity space for the flatted blocks which is located in one large area on the protected side of the block is sheltered from noise and meets the required noise standards for private amenity space (less than 55Db(a)) in line with the majority of the other private amenity spaces across the development. Officers therefore consider that this represents an appropriate and acceptable design solution for the site which will provide effective noise attenuation and an acceptable standard of amenity for residents of the flatted block.

The Environmental Health Team have identified some specific concerns which relate to noise. Firstly, the rear gardens or part thereof of 3 of the proposed houses would be in breach of the upper guideline value of 55Db(a) 16 hour daytime average between 0700 and 2300 hours. These are Plots 1 and 2 and part of Plot 34. The private amenity space of the remaining 47 dwellings would

be within the required guideline standards. Officers do not consider that the fact that the private amenity space of 3 dwellings would not meet in whole or in part the upper guideline noise limit justifies a refusal of planning permission on noise grounds. When looked at holistically, the vast majority of the development (94%) meet the required standards set out in the guidelines.

The other concern identified by the Environmental Health Team relates to the specification of the glazing and the need for this to be revised to ensure that it provides sufficient attenuation. A condition is therefore recommended to cover this point.

Landscape

Core Strategy Policy CS8 *Natural Environment and Biodiversity* states that *'development must have regard to the character of the landscape and its sensitivity to change and where development is permitted it will need to enhance the locally distinctive character of the landscape in accordance with the Landscape Character Assessment'*.

The Council's Landscape Capacity Analysis (Braintree District Settlement Fringes) June 2015 identifies the application site as falling within a larger area of land (evaluated as Parcel 1a) which has medium capacity for development (sites being rated from low; medium-low; medium; medium-high and high in category). The Council's Landscape Officer has assessed the application and has no objection on landscape grounds subject to a minor change to two of the proposed tree types.

The majority of the existing trees on the site are shown to be retained. A low grade (C2) hedgerow would be removed to facilitate the proposed site access. The Council's Landscape Officer states that the submitted Arboricultural Report provides an accurate assessment of the Arboricultural features and possible constraints on the site. Most of the vegetation cover comprises boundary trees and poor hedgerows which are of limited value within the context of the development of the site. The items of more significant amenity and value to the local setting are within the curtilage of the adjacent properties and these can be protected by the implementation of the submitted Tree Protection Plan referred to above which is covered by planning condition.

Overall, Officers do not consider that there are any grounds to refuse the application on landscape impact.

Ecology

Adopted Local Plan Policy RLP80 requires new development to include an assessment of its impact on wildlife and states that it should not be detrimental to the distinctive landscape features of the area. Policy RLP81 encourages landowners to retain, maintain and plant native trees, hedges and woodlands and Policy RLP84 states that planning permission will not be granted for development which would have an adverse impact upon protected species.

The applicant submitted a Phase 1 Ecology Survey in support of the application. The survey found that the site consists predominantly of a horse grazed improved grassland field with interspersed areas of ruderal vegetation, bordered by an unmanaged species-poor hedgerow. It is considered likely to be used by foraging birds and low numbers of bats were recorded foraging and commuting over part of the northern hedgerow of the site.

Updated surveys for reptiles were recommended and this is required by way of planning condition. Ecological enhancement measures such as the retention and enhancement of boundary hedging where possible; bat and bird boxes and the incorporation of reptile hibernacula within the landscaping scheme were identified as being beneficial and are required by way of planning condition. A condition is also recommended to require the applicant to prepare a bat sensitive lighting strategy.

Braintree District Council's Ecology and Landscape Officer has no objection to the proposal subject to the above planning conditions with the requirement for a reptile survey relating specifically to the possible presence of slow worms along the eastern edge of the site. The updated survey works would be used to provide suitable protection and mitigation and a Construction and Environment Management Plan would also be required.

In terms of the wider Ecological context, the Essex Estuaries Special Area of Conservation (SAC) and the Blackwater Estuary (Mid-Essex Coast Phase 4) Special Protection Area (SPA) and Ramsar Sites, known collectively as 'natura 2000 sites' are located approximately 7.9km south east of the site. It is therefore necessary for BDC to prepare a Habitat Regulations Assessment (HRA) Screening Report which is being undertaken at the time of writing. The County Ecologist, who prepares HRA Screening Reports on behalf of BDC does not consider it likely that the HRA process will demonstrate that a significant likely effect (which would trigger the need for further appropriate assessment) would be caused by the proposed development on natura 2000 sites. The Officer recommendation for approval is therefore subject to the outcome of this Screening exercise.

Highways and Transport

The applicant seeks full planning permission including for the proposed access and internal highway layout. A Transport Assessment and detailed access drawing have been submitted in support of the application. The Transport Assessment takes account of the proposed development and the committed developments at the adjacent Arla Dairy site and Bury Farm site.

The existing access to the site is an informal agricultural access taken from Bury Lane although it does benefit from a dropped kerb. The applicant proposes a new vehicular and pedestrian access slightly further to the east from Bury Lane, with the existing farm access being stopped up. Due to the fact that the new access would join Bury Lane in the immediate vicinity of the

A12 slip road both Highways England and Essex County Highways have been consulted.

Highways England have no objection to the proposal, subject to a condition requiring upgrades to be carried out to the A12 slip. The proposed upgrades would include a slow marking in the road and junction warning/direction signs to warn users of the A12 slip of the approaching Bury Lane junction. Shrubbery would also be cleared to improve visibility splays.

In terms of trip generation, the applicant's Transport Assessment states that based on the TRICS database the development would generate 18 outbound vehicle trips and 8 inbound in the AM peak (0800 – 0900) and 17 inbound and 11 outbound trips in the PM peak (17 -1800) which is not considered severe in the context of the NPPF.

With regard to the wider impact, the Bury Lane/The Street junction is assessed as being able to operate within theoretical capacity with the development resulting in a marginal increase in vehicle flows through this junction (+1.2%) and in queuing with the queue falling well short of the A12 slip.

Essex County Council Highways have assessed the application and have no objection on highway grounds subject to a number of requirements which are detailed below.

Overall, Essex County Council Highways and Highways England as the statutory Highway Authorities have no objection to the proposed development and state that from a highway and transportation perspective the impact of the proposal is acceptable subject to planning conditions/S106 obligations requiring:

- The removal of the existing farm/field access and the construction of a priority junction off Bury Lane to enable access to the proposal site. Priority junction to include but not be limited to a minimum 5.5m wide proposal site access road carriageway with 2no. minimum 2m wide footways, maximum 10m kerbed radii with dropped kerbs/tactile paving and a 90m x 2.4m x 90m visibility splay;
- Upgrade to ECC specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of development);
- Provision and implementation of a Residential Travel Information Packs in accordance with ECC guidance;
- The submission of a Construction Traffic Management Plan;
- Only cycle and pedestrian access (no vehicular) connections between the proposal site and land immediately to the north;
- a condition stating that no part of the proposed development shall be brought into beneficial use or occupation until the highway improvements (signs and slow markings) to the A12 slip road have been carried out in accordance with the submitted drawings (or alternative layout form having

no less effect in terms of highway safety) subject to such design modifications as the appropriate Highways Authority may decide to make.

Overall, it is not considered that there are any grounds to justify a refusal of planning permission in relation to highway matters.

Impact Upon Neighbour Amenity

There are three existing dwellings located immediately adjacent to the application site's western boundary and a number of dwellings located adjacent to the site's eastern boundary although these are positioned further from the shared boundary.

The proposed layout demonstrates compatibility with these existing dwellings and Officers do not consider that there would be any significant detrimental impact upon existing residents in terms of any loss of sunlight or daylight, overlooking or the development having an overbearing impact.

Other Matters

Archaeology

The site is considered to have a high probability for remains associated with the original medieval village of Hatfield Peverel.

Essex County Council Place Services (Archaeology) have been consulted and have no objection to the application subject to standard archaeological investigation conditions securing a programme of archaeological evaluation and recording.

Construction Activity

The Council's Environmental Services Team have requested conditions relating to hours of working; the submission of a dust and mud control scheme for approval and details of any piling operations.

Air Quality

In relation to air quality the Council's Environmental Services Team have no objection. They advise that with regard to the calculations contained within the report the verification factors (a factor derived from local monitoring to adjust the modelled results) are not considered to be derived in the correct way. However, the Environmental Health Team have checked these calculations and consider the applicant's methodology is unlikely to alter the report content overall. They therefore consider the overall Air Quality report to be acceptable and do not consider that there are any grounds to recommend the refusal of planning permission in relation to air quality.

Contamination

The applicant submitted a Contaminated Land Assessment in support of their application which did not identify any specific sources of contamination on the site. The Council's Environmental Health officer has no objection subject to the use of a standard precautionary contaminated land condition.

Flood Risk and Surface Water Drainage

The application site is located within Flood Zone 1 (low probability risk of flooding). The applicant has submitted a Flood Risk Assessment and Drainage Strategy in support of their application and propose to utilise permeable paving areas with infiltration crates located below which would connect to dedicated soakaways.

The Lead Local Flood Authority (Essex County Council) have been consulted and following the submission of further drainage strategy information have no objection to the proposal subject to standard drainage conditions.

Anglian Water have confirmed that the foul drainage from this development is in the catchment of Witham Water Recycling Centre which will have available capacity for these flows and that the sewerage system at present has capacity for these flows.

Agricultural Land

The application site consists of an agricultural field which is currently used for grazing horses. The land is graded as best and most versatile Grade 2 ('very good'). Its development would result in the permanent loss of this land.

Paragraph 112 of the NPPF requires Local Planning Authorities to take into account the economic and other benefits of such land and that where significant development of such land is demonstrated to be necessary, the Local Planning Authority should seek to use areas of poorer quality land in preference to that of a higher quality. The site as a whole measures approximately 1.8 hectares. Given its small size it is not considered either that its loss would constitute the significant development of best and most versatile agricultural land, nor that economic and other benefits of retaining the paddock in its existing form are substantial. In addition, the site is proposed for allocation for residential development by the Council in the emerging Local Plan and the loss of this land is considered necessary on a strategic level to meet the District's housing need. Officers do not therefore consider the loss of this land weighs significantly against the granting of planning permission when considering the planning balance.

Delivery Timescales

The applicant has advised that if permission is granted their intention would be to commence on site in March 2019 with first completion in March 2020

and last completion in December 2020. Officers therefore consider that this is a development which would be likely to be delivered within comparatively short timescales, particularly given that it is a full rather than outline planning application. This would assist the Council to address the current shortfall in the 5 year housing land supply.

Site Assessment Conclusion

Overall Officers are of the opinion that the site is capable of accommodating the proposed quantum of development in a sustainable manner.

There are no objections to the application from any statutory consultees and Officers consider that the concerns raised by the Council's Environmental Health Team have been satisfactorily addressed.

Section 106

The following identifies those matters that the District Council would seek to secure through a planning obligation.

Affordable Housing

Policy CS2 of the Core Strategy requires developers to provide affordable housing on site with a target of 40% affordable housing provision on sites in rural areas or 30% affordable housing on sites in urban areas. The application site is not located in an urban area and the provision of 40% affordable housing is therefore required.

The applicant submitted an Affordable Housing Statement in support of the application confirming that 40% of the proposed dwellings would be affordable housing; that is housing that is affordable rented and intermediate housing provided to eligible households whose needs are not met by the market. Based on a development of 50 dwellings this equates to 20 dwellings.

The Council's Strategic Housing Team has confirmed that the affordable housing and tenure mix proposed is acceptable and is an appropriate mix to match evidence of housing need. They are supportive of the application's ability to provide a significant number of new affordable homes to assist the Council in addressing housing need.

Open Space

Policy CS10 requires new development to make appropriate provision for publically accessible green space or improvement of existing accessible green space in accordance with the following adopted standards (all figures are calculated per thousand population); parks and gardens at 1.2 hectares; outdoor sports provision at 2.0 hectares; amenity greenspaces at 0.8 hectares; provision for children and young people at 0.2 hectares.

The Council's Open Space SPD sets out further details on how these standards will be applied. A development of this size would be expected to make provision for informal and casual open space on site with a financial contribution towards the provision of off-site outdoor sports facilities; equipped children's play areas and allotments.

In terms of off-site financial contributions, the Open Space SPD requires the following:

- £46,416.05 toward the off-site provision of, or improvements to outdoor sports facilities;
- £31,174.80 towards the off-site provision of, or improvements to equipped children's play areas;
- £1,473.03 towards the off-site provision of, or improvements to and allotments.

These contributions would be secured through the S106 Agreement.

Highways and Transport

Upgrades to the two bus stops which would best serve the proposal site (details to be agreed with the LPA prior to commencement of development).

Residential Travel Information Packs are also required for new occupiers of the development.

Footpath/Cycle Link

To be provided to the site's northern boundary to allow a through route to the adjacent former Arla Dairy site and the railway station beyond.

Education

Essex County Council have advised that the proposed development is located within the Hatfield Peverel and Terling Ward. A Developer contribution of £65,336 index linked to April 2017 towards Early Years and Childcare provision is required.

The development is located within the priority admissions area of Hatfield Peverel Infant and St Andrew's Junior Schools. A developer contribution of £237,390 index linked to April 2017 towards primary school place provision is required.

Ecology

A mitigation package towards the development's impact upon the natura 2000 sites. This may include a financial contribution towards off site visitor management measures or monitoring surveys at the natura 2000 sites, a financial contribution to the improvement of the public rights of way network within the vicinity of Hatfield Peverel and the promotion of circular walking

routes near the application site to new residents. The final detail of the mitigation package will be identified during the HRA screening process.

CONCLUSION AND PLANNING BALANCE

The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at paragraph 14 that for decision taking, where relevant development plan policies are out of date this means granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework. Such an assessment must take account of the economic, social and environmental impact of the proposed development and these matters must be considered in the overall planning balance.

The application site is located adjacent to but outside the Village Envelope of Hatfield Peverel as identified in the adopted Local Plan and is located in the countryside. The applicant's proposal to develop the site in a residential capacity must therefore be considered as a departure from the adopted Development Plan. However the emerging Publication Draft Local Plan proposes to allocate the site for residential development as part of a wider comprehensive redevelopment area.

The submission version Neighbourhood Plan acknowledges the emerging Local Plan's proposed site allocations, which include the allocation of the application site for housing and contains a map at page 55 which identifies the application site as being included within the emerging Local Plan Comprehensive Redevelopment Area as a (proposed) allocated housing site. However, the submission version Neighbourhood Plan does not specifically seek to allocate the application site for residential development and the current application is therefore contrary to the Neighbourhood Plan in this regard.

The current proposal is therefore in accordance with the Council's emerging Local Plan's proposal to allocate the site for residential development but contrary to the Neighbourhood Plan. Both of these emerging Plans can be given some weight, although, based on their stage of development, it is considered that this weight is limited to moderate and it is necessary to consider the application on its merits, and against paragraph 14 of the NPPF with its associated presumption in favour of sustainable development.

In terms of economic and social sustainability, the development would bring significant public benefits including a substantial number of both market and affordable houses, the provision of public open space on site and financial contributions towards the off-site provision of children's playspace; allotments and outdoor sports facilities; the upgrading of two existing bus stops and safety improvements to the A12 slip road/Bury Lane junction. It would also generate a number of construction jobs during the build phase in addition to providing new residents to Hatfield Peverel to provide further support for existing services and facilities.

Environmentally, the site has been assessed as having the capacity to accommodate the proposed quantum of development without significant adverse ecological impacts or upon the wider landscape. The site is capable of providing landscaping and public open space in according with Braintree District Council's adopted policy requirements. The site is also well located for future residents to access the mainline rail service and to provide pedestrian and cycle access into Hatfield Peverel.

The development would make a notable contribution toward the Council's 5 year housing land supply deficit, a factor which must be given significant weight in the determination of this application and Officers consider that this is a development which would be likely to be delivered within comparatively short timescales. The applicant has submitted a suite of detailed documents which demonstrate to Officers that the site is free of any constraints to residential development which cannot be resolved by way of conditions and a S106 Agreement.

The adverse impacts of the proposal are limited and would include conflict with adopted (2005) development plan which identifies the site as lying within the countryside and conflict with the submission version Neighbourhood Plan which does not seek to allocate the site for development, the loss of a small amount of agricultural land and some impact upon the Bury Lane/The Street junction resulting in a marginal increase in vehicle flows through this junction.

In conclusion, this application relates to the development of a site located adjacent to but outside a village settlement boundary, for the provision of 50 dwellings, including 40% affordable dwellings. Although currently considered as countryside in the adopted Local Plan, the site is being promoted for allocation for residential development in the emerging Publication Draft Local Plan but not in the emerging Neighbourhood Development Plan. Both these latter Plans carry some weight, although this is limited due their stage in preparation, but in the case of the Council's emerging Local Plan it does indicate the emerging change in direction of land use policy for this particular site. As with all development proposals, the NPPF is clearly a material consideration and the Local Planning Authority must take account of its explicit guidance in relation to how it should consider applications for residential development where relevant policies are not considered in terms of the guidance to be up to date.

Paragraph 12 of the NPPF makes clear that the NPPF "does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise."

It is the case that the District Council cannot demonstrate a five year housing land supply and this clearly affects the weight that can be attached to adopted policies which might affect the acceptability of providing housing in certain

locations and this point is emphasised by the planning balance that LPAs are required to undertake under paragraph 14 of the NPPF.

In this particular case, there are not considered to be any specific policies in the Framework that would indicate that a development of housing at this site should be restricted. This means that the LPA must consider the proposals in the context of the “tilted balance” indicated by the first bullet point of paragraph 14 of the NPPF; i.e. to consider whether the adverse impacts of the approving the development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.

Overall, when considering the economic, social and environmental limbs of sustainable development as identified in the NPPF, it is concluded that the benefits of granting permission for the proposed development of this site which will deliver an appreciable boost to housing supply within the District outweigh the limited adverse impacts. Accordingly approval is recommended.

RECOMMENDATION

It is therefore RECOMMENDED that subject to:

- 1) The Habitat Regulations (HRA) Screening Report concluding that no likely significant effect will be caused and;
- 2) The applicant entering into a suitable legal agreement pursuant to S106 of the Town and Country Planning Act 1990 (as amended) to cover the following Heads of Terms:
 - **Affordable Housing** (40% provision which equates to 20 units. Unit mix and tenure mix to be in accordance with approved Tenure Plan 8424/47 REV B and approved Accommodation Schedule 8424 Revision 1). House types and ground floor flats should be compliant with either lifetime homes standards or Part M 2 of Building Regulations; delivered without reliance on public subsidy; all affordable units must be compliant with standards acceptable to the Homes and Communities Agency at the point of construction
 - **Education** (financial contribution of £65,336 index linked to April 2017 toward Early Years and Childcare and financial contribution of £237,390 index linked to April 2017 towards Primary School provision required based on the County Council's standard formula).
 - **Footpath/Cycle link** (To be provided to the site's northern boundary to allow a through route to the adjacent former Arla Dairy site and the railway station beyond).
 - **Public Open Space** (financial contribution of £46,416.05 towards outdoor sports provision; £31,174.80 towards equipped children's play space and £1,473.03 towards allotments calculated in accordance with Policy CS10

and the Council's Open Spaces SPD using the Council's standard Open Spaces Contributions formula. Open space specification, plan and management plan required for approval by the Council in relation to on-site public open space).

- **Residential Travel Information Pack** (to be approved by Essex County Council. Trigger point being prior to occupation of the first unit. To include six one day travel vouchers for use with the relevant local public transport operator. Travel Packs to be provided to the first occupiers of each new residential unit).
- **Upgrading of bus stops** (The upgrading of the two bus stops which would best serve the application site with details to be agreed with the Local Planning Authority).
- **Ecology** (mitigation package to mitigate the development's impact upon natura 2000 sites. This may include a financial contribution towards off site visitor management measures or monitoring surveys at the natura 2000 sites and to the improvement of the public rights of way network within the vicinity of Hatfield Peverel and the promotion of circular walking routes near the application site. Details of the mitigation package and the requirement for financial contributions to be identified/confirmed during the HRA screening process).

The Development Manager be authorised to GRANT planning permission under delegated powers subject to the conditions and reasons set out below and in accordance with the approved plans.

Alternatively, in the event that a suitable planning obligation is not agreed within 3 calendar months of the date of the resolution to approve the application by the Planning Committee the Development Manager may use her delegated authority to refuse the application.

APPROVED PLANS

Location Plan	Plan Ref: 8424/01	
Block Plan	Plan Ref: 8424/02	Version: B
Site Masterplan	Plan Ref: 8424/03	Version: C
Street elevation	Plan Ref: 8424/04	Version: A
House Types	Plan Ref: 8424/10	Version: A
House Types	Plan Ref: 8424/11	Version: B
House Types	Plan Ref: 8424/12	Version: B
House Types	Plan Ref: 8424/13	Version: A
House Types	Plan Ref: 8424/15	
House Types	Plan Ref: 8424/16	
House Types	Plan Ref: 8424/17	Version: B
House Types	Plan Ref: 8424/18	Version: A
House Types	Plan Ref: 8424/19	Version: A
House Types	Plan Ref: 8424/20	Version: A
House Types	Plan Ref: 8424/21	Version: B

House Types	Plan Ref: 8424/22	Version: A
House Types	Plan Ref: 8424/23	
House Types	Plan Ref: 8424/25	Version: B
House Types	Plan Ref: 8424/26	Version: A
House Types	Plan Ref: 8424/27	
House Types	Plan Ref: 8424/28	Version: B
House Types	Plan Ref: 8424/29	Version: B
House Types	Plan Ref: 8424/30	Version: A
House Types	Plan Ref: 8424/31	
House Types	Plan Ref: 8424/32	
House Types	Plan Ref: 8424/33	Version: A
House Types	Plan Ref: 8424/34	Version: B
House Types	Plan Ref: 8424/35	Version: B
House Types	Plan Ref: 8424/36	Version: C
Planning Layout	Plan Ref: 8424/40	Version: B
Planning Layout	Plan Ref: 8424/41	Version: A
Planning Layout	Plan Ref: 8424/42	Version: B
Planning Layout	Plan Ref: 8424/43	Version: B
Planning Layout	Plan Ref: 8424/44	Version: A
Planning Layout	Plan Ref: 8424/45	
Planning Layout	Plan Ref: 8424/46	Version: B
Planning Layout	Plan Ref: 8424/47	Version: B
Garage Details	Plan Ref: 8424/60	
Substation Details	Plan Ref: 7873/61	
Landscape Masterplan	Plan Ref: L_PL_001	Version: PL4
Other	Plan Ref: Accommodation Schedule	Version:
8424 REV 1		
Access Details	Plan Ref: P893-004	Version: A
Tree Plan	Plan Ref: DFCP 2809 TCP	Version: REV B
Other	Plan Ref: Arboricultural Impact Assessment 20	
April 2017	Version: DFCP 2809 REV B	
Elevations	Plan Ref: 8424/37	

- 1 The development hereby permitted shall begin not later than 3 years from the date of this decision.

Reason

This Condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be carried out in accordance with the approved plans and documents listed above.

Reason

For the avoidance of doubt and in the interests of proper planning.

- 3 Prior to the first occupation of the development the existing farm/field access shall be removed and the proposed access shall be implemented

as shown on drawing P893-004 REV A with a priority junction provided off Bury Lane to enable access to the proposal site including but not limited to a minimum 5.5 metre wide proposal site access road carriageway with 2no. minimum 2 metre wide footways, maximum 10 metre kerbed radii with dropped kerbs/tactile paving and a 90 x 2.4 x 90 visibility splay. The proposed highway improvements (signs and slow marking) to the A12 slip road (subject to such design modifications as the appropriate Highway Authority may decide to make) shall also be implemented prior to the first occupation of the development unless such highway improvements have already been completed to the satisfaction of the Local Planning Authority.

Reason

To ensure the access is constructed to an acceptable standard and to ensure that the strategic road network can continue to operate as part of the national system of routes for through traffic in the interests of highway safety.

- 4 The development shall be carried out in accordance with the approved Arboricultural Impact Assessment and Tree Protection Plan (DFCP 2809 TCP REV B) contained therein, undertaken by DF Clarke Bionomique Ltd, dated 20 April 2017 reference DFCP 2809 REV B with the identified tree protection measures being put in place before any works begin on the application site.

Reason

To ensure the protection and retention of existing trees and hedges which are identified as being retained.

- 5 The approved landscaping scheme including all planting, seeding or turfing shall be carried out in the first planting and seeding seasons after the commencement of the development, subject to the following changes to the Tree Specification:
 - a) T2 Tilia cordata should instead be specified as Greenspire and T11 Amelanchier should instead be specified as Acer campestre Streetwise.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.

Reason

To enhance the appearance of the development and in the interests of amenity.

- 6 The approved hard standing areas detailed in Materials Plan 8424/42 REV B shall be carried out before first occupation of the property which it serves.

Reason

To enhance the appearance of the development and in the interests of amenity.

- 7 Details of any proposed external lighting to the site shall be submitted to, and approved in writing by, the local planning authority prior to installation. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). All lighting shall be installed, maintained and operated in accordance with the approved details. There shall be no other sources of external illumination.

Reason

To minimise pollution of the environment and to safeguard the amenities of the locality and the appearance of the development.

- 8 Details of a suitable temporary construction Lighting Strategy which addresses the points raised in section 4.11 of the submitted Phase 1 Habitat Survey shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The approved strategy shall be adhered to during the construction phase of the development.

Reason

To safeguard any foraging/commuting bats that could be present on the site during the construction phase of the development. The strategy is required prior to the commencement of development to ensure that safeguards are in place from the outset.

- 9 No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:-

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Sundays, Public and Bank Holidays - no work

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 10 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in order to assess the nature and extent of any such contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and approved in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent

persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Where remediation is necessary a detailed remediation scheme must be prepared to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme must be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority. The approved remediation scheme must be carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the

development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 11 No development shall commence until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- Safe access to/from the site including details of any temporary haul routes and the means by which these will be closed off following the completion of the construction of the development;
 - The parking of vehicles of site operatives and visitors;
 - The loading and unloading of plant and materials;
 - The storage of plant and materials used in constructing the development;
 - Details of any piling operations to be carried out during the construction phase;
 - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - Vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway;
 - Measures to control the emission of dust and dirt during construction;
 - A scheme for recycling/disposing of waste resulting from demolition and construction works;
 - Delivery, demolition, site clearance and construction working hours.;
 - Details of how the approved Plan will be implemented and adhered to, including contact details (daytime and 24 hour) for specifically appointed individuals responsible for ensuring compliance;
 - Details of the keeping of a log book on site to record all complaints received from the public and the action taken in response. The log book shall be available for inspection by the Council and shall include information on the action taken in response to the complaint;
 - Any protective mitigation measures identified as being necessary during the construction phase of the development by the updated Reptile Surveys required by condition 21.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area. The Statement is required prior to the commencement of development to ensure that measures are in place to safeguard the amenity of the area prior to any works starting on site.

- 12 Prior to the commencement of above ground construction, a schedule and samples of the materials to be used on the brick boundary walls; block paved hard surfaced areas and the external finishes of the new dwellings, sub-station and where appropriate garages and balconies, including details of the proposed new brick, tiles and details of the proposed render and boarding shall be submitted to and approved in writing by the Local

Planning Authority. The development shall be carried out in accordance with the approved details.

Reason

To ensure that the development does not prejudice the appearance of the locality.

- 13 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwelling-houses/alteration of the dwelling-houses, as permitted by Classes A, B and C of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

Reason

In order that the Local Planning Authority may exercise control over any proposed future extensions/alterations in the interests of residential and/or visual amenity.

- 14 a) No development or preliminary groundworks shall commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.
- b) Where further work has been identified from the archaeological evaluation required under a) above a mitigation strategy detailing the excavation/preservation strategy shall be submitted to the local planning authority for approval prior to the completion of this work.
- c) No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy required by b) above, and which has been signed off by the local planning authority through its historic environment advisors.
- d) Within 6 months of the completion of fieldwork required under a) and/or c) the applicant shall submit to the Local Planning Authority a final report or detailed publication proposal for the dissemination of the results of the project.

Reason

To enable full investigation and recording of this site of archaeological importance. The implementation of the agreed programme of archaeological evaluation is required prior to the commencement of development to ensure that the evaluation is carried out before construction works start which could damage archaeology on the site.

- 15 No works shall take place until a detailed surface water drainage scheme

for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Discharging surface water runoff via infiltration where site conditions allow and limiting additional runoff from the highways area to 0.4l/s for storm events up to and including the greenfield 1 in 100 year event plus 40% climate change allowance.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; to ensure the effective operation of SuDS features over the lifetime of the development and to provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

- 16 No works shall take place until a scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction works and to prevent pollution has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented as approved.

Reason

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement

of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

- 17 No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

- 18 The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

- 19 There shall only be cycle and pedestrian (no vehicular) connections between the application site and land immediately to the north (known as the former Arla Dairy and Bury Farm sites).

Reason

To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

- 20 Prior to first occupation details of a scheme for the provision of bat and bird boxes including a strategy for the scheme's implementation shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and thereafter so retained.

Reason

In the interests of protecting and enhancing biodiversity.

- 21 No development shall commence unless and until a suitable updated Reptile Survey as recommended in the submitted Phase 1 Habitat Survey

completed by James Blake Associated Ltd dated February 2017 has been undertaken. The results will inform an appropriate mitigation strategy and the mitigation strategy (including timescales for implementation) and Reptile Survey shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The construction management plan required by condition 11 above shall also reference the updated Reptile Survey information and identify any protective mitigation measures required during the construction phase of the development.

Reason

To safeguard protected species and minimise the impact of the proposal on biodiversity. The survey is required prior to the commencement of development to ensure that appropriate mitigation measures are identified before development commences on site.

- 22 Prior to the commencement of above ground construction details of the proposed noise insulation/screening measures to the dwellings hereby permitted, including glazing specification to ensure that the required noise level reductions referred to in the submitted Noise Report completed by Ardent, Reference P895-01 dated January 2018 shall be achieved shall be submitted to and approved by the Local Planning Authority. The development shall be constructed in accordance with the approved details and thereafter permanently maintained.

Reason

To protect the amenities of the occupiers of the residential properties hereby permitted.

- 23 No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

Reason

To avoid the excessive raising or lowering of any building hereby permitted and the alterations of ground levels within the site which may lead to unneighbourly development with problems of overlooking and loss of privacy. The details are required prior to the commencement of development to ensure that finished levels are agreed before construction commences.

- 24 Prior to the first occupation of the development hereby permitted, a scheme for the provision of electric vehicle charging points to be provided in garages accompanying the development shall be submitted to the Local Planning Authority and approved in writing. The development shall be implemented in accordance with the approved details prior to the first occupation of the development and thereafter be permanently maintained as such.

Reason

In the interest of promoting sustainable forms of development.

INFORMATION TO APPLICANT

- 1 All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority.
- 2 Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- 3 All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).
- 4 All highway related details should be agreed with the Highway Authority.
- 5 In seeking to discharge the external lighting scheme condition you are advised that the details submitted should seek to minimise light spillage and pollution, cause no unacceptable harm to natural ecosystems, maximise energy efficiency and cause no significant loss of privacy or amenity to nearby residential properties and no danger to pedestrians or road users. Light units should be flat to ground and timer / sensor controls should also be included as appropriate. The applicant is invited to consult with the local planning authority prior to the formal submission of details.
- 6 Your attention is drawn to the consultation response received from Highways England on 22nd June 2017 which sets out a number of requirements in relation to Section 278 Agreements which any Developer will need to comply with.
- 7 This development will result in the need for a new postal address. Applicants should apply to the Street Naming & Numbering Officer using the application form which can be found at www.braintree.gov.uk/streetnaming. Enquiries can also be made by emailing streetnaming@braintree.gov.uk.
- 8 Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SUDs which may form part of the future register, a

copy of the SUDs assets in a GIS layer should be sent to
suds@essex.gov.uk

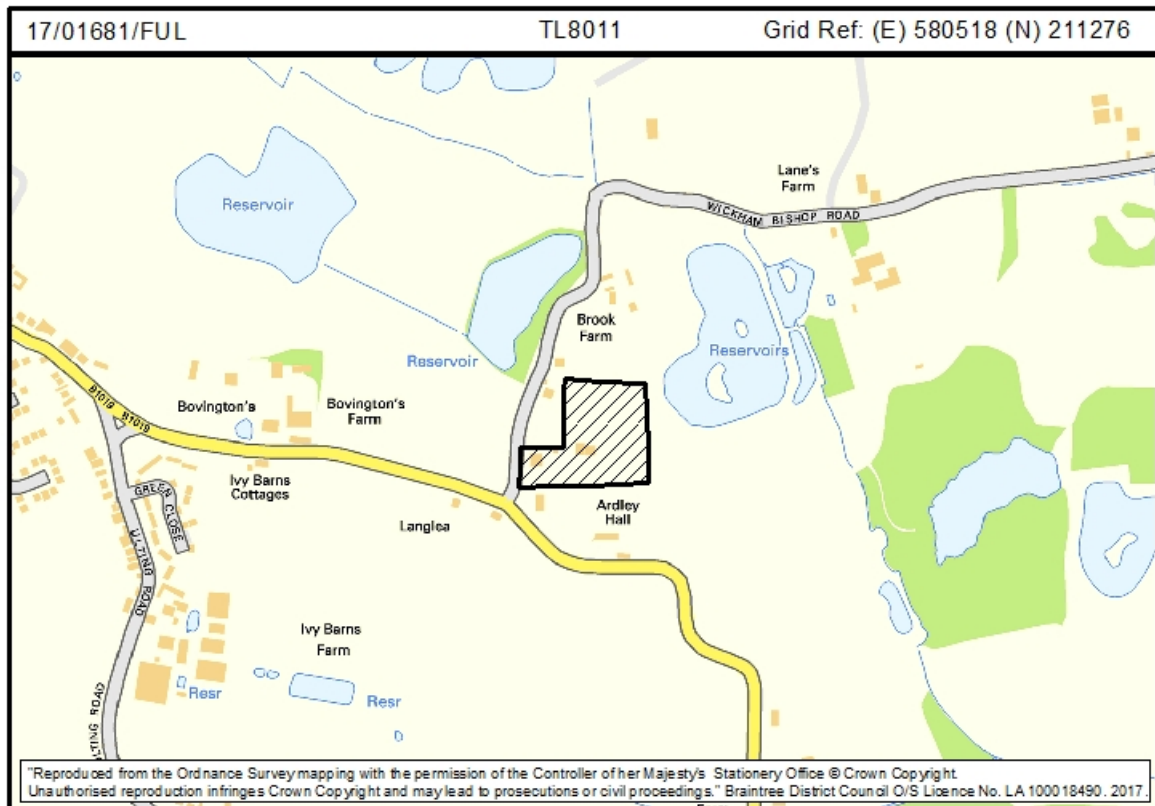
- 9 Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- 10 Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- 11 It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- 12 Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991, or in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

TESSA LAMBERT
DEVELOPMENT MANAGER

PART A

APPLICATION 17/01681/FUL DATE 18.09.17
 NO: VALID:
 APPLICANT: Zero Three Care Homes LLP
 Mr Gary Robert Leckie, Suite 1, The Exchange Court,
 London Road, Feering, Colchester, Essex, CO5 9FB
 AGENT: Pomery Planning Consultants Ltd
 Mr Robert Pomery, Pappus House, Tollgate West,
 Stanway, Colchester, Essex, CO3 8AQ
 DESCRIPTION: Demolition of existing barn complex and erection of new
 barn-like building containing 6no supported living residential
 units
 LOCATION: Massenet, Wickham Bishops Road, Hatfield Peverel,
 Essex, CM3 2JL

For more information about this Application please contact:
 Mathew Wilde on:- 01376 551414 Ext. 2512
 or by e-mail to: mathew.wilde@braintree.gov.uk



SITE HISTORY

02/02283/COU	Change of use of land from agriculture to allow horses to graze and replacement of derelict shed with 2/3 new stables and smaller shed	Granted	04.02.03
86/01500/	Erection of first floor extension with dormer windows.	Granted	03.11.86
87/01583/	Erection of first floor extension to form larger bedroom, bathroom and en-suite.	Granted	16.11.87
88/01521/P	Erection of rear extension	Granted	25.08.88
88/02405/P	Erection of first floor extension and external chimney	Granted	13.01.89
94/00699/FUL	Erection of side extension	Granted	14.07.94
05/01960/FUL	Erection of stables, tack room, feed room and associated fencing	Withdrawn	24.11.05
05/02392/FUL	Erection of stables, tack room, feed room and associated fencing	Refused	13.11.06
15/00093/PLD	Application for a Lawful Development Certificate for a proposed development - for use as a small community home for 5/6 adults with learning disability living together as a single household.	Granted	20.03.15
16/01644/FUL	Proposed change of use of site from C3b (supported housing) to C2 (care home) and use of existing single storey gym/outbuilding to a self-contained one bed annex to existing main building	Granted	22.11.16

POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August

2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5th June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16th June to 28th July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9th October 2017. The Section 1 of the Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government. The Part 2 Draft Local Plan examination will take place later this year.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

“The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given) and;

The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.

Accordingly the Council can currently afford some weight to the emerging Publication Draft Local Plan 2017.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

National Planning Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP21	Institutional Uses in the Countryside
RLP56	Vehicle Parking
RLP90	Layout and Design of Development

Braintree District Local Development Framework Core Strategy 2011

CS5 The Countryside

Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP3	Meeting Housing Needs
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP35	Specialist Housing
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP55	Layout and Design of Development
LPP71	Landscape Character and Features

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought before the Planning Committee in accordance with the Council's Scheme of Delegation as the Parish Council have objected to the application contrary to the Officer's recommendation.

SITE DESCRIPTION

The site is located in a rural location approximately 415m east of Hatfield Peverel and is accessed via Wickham Bishops Road off Maldon Road (B1019). It comprises an existing building which is domestic in appearance and benefits from large grounds to the rear. It is currently occupied by 7 persons in a formalised care home (Use Class C2). The site benefits from ancillary land to the rear which includes two former agricultural buildings.

PROPOSAL

The application seeks permission to demolish the existing barn complex at the rear of the site and erect a new building which would provide for 6 supported living residential units. The building would comprise a core element and then have two wings either side in a horse shoe layout. The application has been revised since its original submission. The location of the building initially was proposed to be located in a similar position to that of the agricultural buildings at the rear of the site to be demolished. It was also orientated in such a way that the inter courtyard would face in a south direction away from the existing care home complex. The red line of the site also encompassed all of the land in the ownership of the applicant.

Following discussions between Officers and the planning agent, it was determined that the original position of the supported living units was remote and unattached to the existing complex. The building was therefore moved to be in closer proximity to the existing Use Class C2 facility on the site, and had its orientation changed so that the courtyard would face onto the existing facility. The red line accompanying the application also changed to narrow down the scope of what is included with this application site and therefore better distinguish the remaining ancillary land to the care home facility.

Access for the supported living units would be taken from the existing access from Wickham Bishops Road for the Care Home. The access track proposed would not be for use of day-day vehicles and would instead be utilised if necessary by emergency vehicles / day-trip vehicles.

CONSULTATIONS

Essex County Council Head of Commissioning (Vulnerable People)

Confirm demand for this type of property – Essex County Council has a vision to enable people with Learning Disabilities and Autism to live as independently as possible – believe supporting living accommodation with their own tenancy is the best way to achieve this.

Environmental Health

No objections to application. Recommends conditions to protect neighbouring amenity including:

- Details of lighting
- Site clearance hours
- Dust and mud
- Risk assessment + remediation

These conditions have been recommended to be included.

Essex County Council Highways

No comments - The highway authority does not consider the proposed number of units would result in detriment to highway safety.

Braintree District Council Ecology

No objection subject to informatives in respect of bats, reptiles and ecological enhancement.

Hatfield Peverel Parish Council

Initially did not object to the application but made reference to the lack of safe pedestrian access on Wickham Bishops Road.

Following revisions bringing the building closer to the existing site, the Parish Council objected on the following basis:

- Separate driveway created
- Increase in noise by virtue of more people at facility
- Availability of carers for the proposed development
- No safe pedestrian access
- Outside of village boundary – not minor extension to the existing facility
- Services and facilities already at capacity

REPRESENTATIONS

Three objections were received from The Nook & Smithscroft (Wickham Bishops Road) and Ardley Hall (Maldon Road) detailing the following summarised objections:

- Noise pollution – high levels of noise being emitted from the property
- Residents of existing care home not adequately managed by the care home – more residents would only increase this
- No scope for further extension at the site – remote location where noise travels far
- Isolated development
- Dangerous roads and poor pedestrian access

There was one further objection from Smithscroft in response to the revised plans stating the following summarised objections:

- Views remain unchanged
- Reiterate position re: dangerous road and lack of safe pedestrian walkways

REPORT

Principle of Development

The National Planning Policy Framework (NPPF) states in (para 14) that the presumption in favour of sustainable development should be seen as a golden thread running through both plan making and decision taking.

The site is located on land designated as 'Countryside' by the Braintree District Local Plan Review and the Braintree District Core Strategy. Adopted Policy RLP2 states that new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside of these areas countryside policies will apply. Adopted Policy CS5 specifies that development outside of Town Development Boundaries and Village Envelopes will be strictly controlled to uses appropriate within the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.

Adopted Policy RLP21 indicates that minor extensions to existing habitable dwellings for the provision of residential homes in the countryside can be considered as an exception to countryside policies. Residential homes may be permitted through the conversion of, or minor extension to, existing habitable dwellings provided that there is a high quality of design and landscaping in terms of scale, form, layout and materials; there is sufficient amenity open space; boundary treatments provide privacy and a high standard of visual amenity both for the residents and the existing locality, and parking is provided in accordance with the Council's standards.

Furthermore, Emerging Policy LPP35 of the emerging Draft Local Plan reiterates the above, and outlines inter alia that minor extensions to, or the expansion of, existing specialist housing in the countryside may be acceptable if all the following criteria are met; the scale, siting and design of proposals is sympathetic to the landscape character and host property; the Council will have regard to the cumulative impact of extensions on the original character of the property and its surroundings; and a travel plan should be provided, which sets out how additional staff, visitors and residents will access the site and ways to minimise the number of journeys by private vehicle.

The site is currently in use as Specialist Housing (Use Class C2). The proposed development, while not a physical extension to the existing care home building itself, would still represent an extension/expansion of the existing specialist housing facility at the site in accordance with Emerging Policy LPP35.

The proposed accommodation in this case would be used differently from the existing accommodation in use at the application site. While the proposal would remain ancillary to the existing facility, the proposed 6no. units of accommodation would provide semi-independent living/supported living accommodation for persons with specialist needs, but with the benefit of on-site care provision. Essex County Council has however confirmed that there is a demand for this type of accommodation across the County and would work with the applicant if Planning permission is granted to possibly bring the units forward. The independent nature of the units, including a kitchen and a bathroom for each unit, is therefore considered to be more akin to providing new housing units rather than a care home facility per se, which would have communal facilities. In addition, the persons who would occupy this form of accommodation would likely occupy other housing elsewhere with an element of care from family or a visiting carer, rather than being located within a care home themselves. The supported living units would still however comprise element of care and future residents of the supported living facilities would share amenities and services with the care home.

As such, while Adopted Policy RLP21 and Emerging Policy LPP35 would still be prevalent, taking into account all of the above it is considered the proposal would comprise 6 new residential units in the countryside. Thus, it is considered the 6 proposed supported living units in this case would contribute to the housing supply in the District and would be consistent with other examples elsewhere in the District.

The NPPF requires that Councils seek to boost significantly the supply of housing, and contains policy guidance to support this. Under paragraph 47 of the NPPF the Council is obliged to have plans which "... meets the full objectively assessed needs for market and affordable housing", together with an additional buffer of 5%. The Council is specifically required to produce and demonstrate its building trajectory to show how there can be the delivery of a five-year supply of housing. Members will be aware that the Council currently have a forecast supply prediction which indicates a shortfall in supply.

A key aspect of the argument has been whether to apply the "Sedgefield approach" or the "Liverpool approach" to the calculation of the shortfall. The difference between the two is that under the Sedgefield approach, Local Planning Authorities make provision for any undersupply from previous years over the next 5 years (i.e. front loading) whereas the Liverpool approach spreads provision for the undersupply over the full term of the Plan (i.e. reducing the level of supply needed in the first five years when compared to the Sedgefield approach). The conclusion reached by two Planning Inspectors (ref. appeal decision Land at West Street Coggeshall dated 12 July 2017, and Land at Finchingfield Road Steeple Bumpstead dated 6th September 2017) is that although the District Council advanced the Liverpool approach, the Sedgefield approach should be applied to the calculation until there is greater certainty with the Local Plan. These appeal decisions are a material consideration in the determination of residential development proposals and it must therefore be acknowledged that whilst the District Council's forecast housing supply (as at 30 December 2017) is considered to be 5.15 years based on the Liverpool approach, it is 4.03 years based on the Sedgefield approach.

The NPPF provides specific guidance in relation to the determination of planning applications in such circumstances, stating at paragraph 49 that "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites".

The impact of this is demonstrated at paragraph 14 which states that "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking.

For decision-taking this means (Footnote: unless material considerations indicate otherwise):

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or

- specific policies in this Framework indicate that development should be restricted (Footnote: for example, those policies relating to sites protected under the Birds and Habitat Directives and/or designated as Sites of Special Scientific Interest, land designated as Green Belt, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion).

As such, while there is an element of care, the Council must take into account the lack of a 5 year housing land supply in the consideration of the merits of the application as set out at paragraph 14 of the NPPF. The merits of the application are discussed below with the planning balance concluded at the end of the report.

Design, Appearance and Layout

Paragraph 56 the NPPF highlights that good design is a key aspect of sustainable development. Paragraph 57 highlights that it is important to achieve high quality and inclusive design for all land and buildings. If a proposal fails to achieve good design, paragraph 64 stipulates that permission should be refused where the design fails to improve the character and quality of an area.

The NPPF states that new development should seek to improve “streetscapes and buildings to create attractive and comfortable places” by using design which reflects “local character and history, and reflect the identity of local surroundings and materials”, thereby resulting in a form of development which is “visually attractive as a result of good architecture and appropriate landscaping”. In addition to this, Adopted Policy RLP90 require designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping. Emerging Policy LPP 55 seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.

The care home facility benefits from a moderate area of land on what would be defined as its curtilage, but also benefits from a large expanse of ancillary land at the rear of the site. This land is currently fenced off from the care home facility with limited access. It is understood to currently not serve a purpose for the care home or anything else. On this land at the rear exist two moderate sized former agricultural buildings; one for storage and the other a former stable building. From the Officers site visit it was evident that these buildings were not in a good state of repair.

The application proposes to demolish these buildings (approx. 58sq.m footprint) and instead erect a larger building in a horseshoe shape (approx. 71sq.m footprint). The building has been designed to try and be in keeping

with the semi-rural context of the site with black weatherboarding and timber shutters to bedroom windows. The design would also include a pantile roof finish and a red facing brickwork plinth. It is considered this would be an appropriate design in this location. In addition, the removal of the two outbuildings would to some extent counterbalance the overall visual impact of the supported living units.

The building was initially proposed to be in a similar position to the existing outbuildings (to be demolished). The red line of the block plan also encompassed the entirety of the ancillary land. Officers consequently raised concerns with the developers in relation to possible creep and overspill of the care home facility to the larger area of the ancillary land which would not be supported in a countryside location. In response to this, the proposed supported housing building was moved southwards and re-orientated to face onto the rear of the care home facility. The distance between the existing care home building and the proposed supported housing building would now be 29m at the closest point, with an existing annexe even closer to the building. The red line has also been amended to a much smaller area around the care home units to ensure that the land in blue remains ancillary land rather than forming part of the care home.

Taking into account the changes above, it is now considered that the proposed supported living units would have some functionality and relationship with the existing care home facility. While the supported living units would not be on the same footprint as the existing buildings to be demolished, it is considered the overall visual impact of the supported living units would be more contained in the countryside location. It is acknowledged the development would represent an large increase of occupiers of the site to the existing care home facility which currently has 7 cared for while the supported living would add a further 6 individuals albeit in a different capacity to the care home site. However, taking all of the above into account, it is considered that the overall impact of the supported living units on the character and appearance of the site would not be detrimental, but likely represent the maximum that the site could accommodate without overdevelopment or creep into the countryside. Details of boundary treatments and planting have been included by way of condition to ensure that the proposal has minimal impact upon the semi-rural character of the area. A condition would also be required to ensure that the buildings are demolished prior to the first occupation of the units.

Impact on Neighbour Amenity

The NPPF requires a good standard of amenity for all existing and future occupiers of land and buildings. Adopted Policy RLP90 of the Braintree District Local Plan Review states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.

The site is located in a semi-rural area and has neighbouring properties to the North and South; Smithscroft and The Brambles respectively. The Nook is the

property located directly north of Smithscroft while Ardley Hall is located further south but has large area of ancillary land adjoining the ancillary land at the application site. While some of the neighbouring property boundaries adjoin the site, the actual dwellings themselves are located some distance from the application site; approx. 73m to Smithscroft, 36m to The Brambles, approx. 100m to The Nook and approx. 90m to Ardley Hall.

Concerns have been raised by neighbours in respect of the existing noise at the site and are worried that this application for supported living units would increase the noise emanating from the site. It is without question that there would be an intensification of the overall use of the site by virtue of erecting 6 supported living units. In this case, taking into account the large separation distances to neighbouring properties, it is considered that any increase in noise would not cause sufficient detriment to neighbouring properties that would warrant refusing the planning application. Similarly, the Councils Environmental Health Officer considered the application and raised no objections subject to conditions in respect of controlling hours of construction, details of external lighting etc. As such, while residents' concerns are noted, it is considered the proposal would be acceptable in this regard.

Highway Issues

Adopted Policy RLP56 states that off-road vehicle parking should be provided in accordance with the Council's adopted vehicle parking standards. The Council adopted its current parking standards in September 2009.

The parking standards do not include specifications for supported living units. However, it is anticipated that the need for any of the people who will occupy them. The proposal would slightly reconfigure the existing parking arrangement at the site to facilitate the vehicle access to the supported living units, albeit as discussed earlier in the report this would be used very infrequently. Some parking spaces would become tandem parking spaces to facilitate the access but overall there would be a net gain of three spaces to accommodate a small increase in staff. The tandem spaces would not cause issue in this case as the site would remain to be managed by the care home company and thus its parking can be managed accordingly.

A travel plan was not provided with the application. A travel plan is not a requirement of Adopted Policy RLP21 but is a requirement of Emerging Policy LP35. The emerging Local Plan has yet to be adopted and thus only some weight can be given to it. In this case, it is considered the absence of a travel plan would not be sufficient to simply refuse the application. In any case, the site is reasonably well accessed in terms of road network, it is within a commutable distance to Hatfield Peverel and overall the proposed increase would not require a significant amount more staff; four during the day and two in the evening. It is considered that the site benefits from sufficient parking to accommodate this requirement. Moreover, no objections have been received from ECC Highways and therefore it is considered that there would be no adverse impacts on the local highway network arising from this proposal.

Concerns have been raised by the Parish Council and neighbours about the lack of pedestrian safety on Wickham Bishops Road as it is unlit and comprises no designated footpath. Concerns have also been raised about the lack of pedestrian crossing on Maldon Road near Wickham Bishops Road to utilise the footpath on the opposite side that leads into the village. These concerns are noted and not disputed. The proposal in this case is however an expansion to an existing facility. Due to the scale of development proposed, it is considered that it would be unreasonable to require the footpath link to be upgraded. Taking this into account, while it is acknowledged the pedestrian links from the site are far from adequate, it is not considered that planning permission could be withheld on this ground alone. Instead this is a material consideration which forms part of the overall planning balance.

Landscape & Ecology

Adopted Policy RLP84 states that planning permission will not be granted for development, which would have an adverse impact on badgers, or species protected under various UK and European legislation, or on the objectives and proposals in National or County Biodiversity Action Plans as amended. Where development is proposed that may have an impact on these species, the District Council will require the applicant to carry out a full ecological assessment. This is echoed by Emerging Policy LPP68.

A biodiversity survey and report was submitted with the application. It found no evidence of bats in the outbuildings to be demolished. The Council's ecologist therefore had no objection to the application, subject to informatives in respect of seasons for work, bats, reptiles and bird boxes. All have been included.

Planning Balance

As set out in Paragraph 7 of the NPPF, sustainable development has three dimensions; an economic role (contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation), a social role (supporting strong, vibrant and healthy communities, by providing the supply of housing required, by creating a high quality built environment, with accessible local services), and an environmental role (contributing to protecting and enhancing the natural, built and historic environment, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change). These roles should not be considered in isolation, because they are mutually dependant.

In this case, the proposal would provide 6 supported living units in an area where Essex County Council have confirmed that there is a demand for such accommodation which would be a social benefit, and would provide 6 dwellings towards the housing supply. There would also be a small economic benefit during construction.

In terms of harms, the site is located outside the village boundary of Hatfield Peverel but the proposal would be broadly in accordance with criteria contained within specialist housing Policies RLP21 and LPP35 which provides an exception to such development in the countryside. The erection of the new building would incur a greater visual impact in the countryside but would to some extent be mitigated by the removal of the existing buildings on the site. While the building would not be a traditional extension to the existing care home facility, it would have a physical and functional relationship with it, and thus minimise creep into the open countryside. The intensification of the site would likely increase noise levels but due to moderate-large separation distances to neighbouring properties, this impact would not be detrimental. In terms of parking, the site would be provided with suitable parking but would have poor pedestrian connectivity to the core of Hatfield Peverel.

Cumulatively therefore the proposed supported living units would cause some harm, but these harms need to be balanced against the benefits. Taking into account all of the above, it is considered the application would need to be determined on the tilted balance in favour of development as set out in Paragraph 14 of the NPPF.

CONCLUSION

In the tilted balance, having regard to all of the above, when considering the planning balance and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the development in this case would not be outweighed by the adverse impacts. Therefore, when conducting the planning balance in the context of Paragraph 7, 14 and 49 of the NPPF, it is considered that the development in this case is acceptable.

RECOMMENDATION

It is RECOMMENDED that the following decision be made:
Application GRANTED subject to the following conditions and reasons and in accordance with approved plans:-

APPROVED PLANS

Existing Site Plan	Plan Ref: 9086 01
Proposed Site Plan	Plan Ref: 9086 02
Proposed Floor Plan	Plan Ref: 9086 03
Proposed Elevations	Plan Ref: 9086 04

- 1 The development hereby permitted shall begin not later than three years from the date of this decision.

Reason

This Condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed above.

Reason

To ensure that the development is in character with the surrounding area and does not prejudice the appearance of the locality.

- 3 No above ground works shall commence until samples of materials to be used in the external finishes has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.

Reason

To ensure that the development does not prejudice the appearance of the locality.

- 4 The building hereby approved shall have no more than 6 bedrooms for residents (excluding staff sleep over space).

Reason

To determine the scope of this permission and to ensure that the Local Planning Authority can control any intensification of the use.

- 5 No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:-

Monday to Friday 0800 hours - 1800 hours
Saturday 0800 hours - 1300 hours
Sundays, Public and Bank Holidays - no work

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 6 No piling shall be undertaken on the site in connection with the construction of the development until a system of piling and resultant noise and vibration levels has been submitted to and agreed in writing by the Local Planning Authority and shall be adhered to throughout the construction process.

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding areas.

- 7 No development shall commence until a dust and mud control management scheme has been submitted to and approved in writing by the local planning authority. The approved dust and mud control management scheme shall be adhered to throughout the site clearance and construction phase of the development.

Reason

During construction, the creation of dust and the displacement of mud is commonplace. These details are required prior to the commencement of development to ensure that a scheme is in place to mitigate the dust and mud created at the site, to prevent it being transferred onto the highway and also in the interests of residential amenity.

- 8 Development shall not be commenced until an investigation and risk assessment, in addition to any assessment provided with the planning application, have been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and approved in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'

If remediation is necessary then the approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 9 Details of any proposed external lighting to the site shall be submitted to, and approved in writing by, the local planning authority prior to installation on the building. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). All lighting shall be installed, maintained and operated in accordance with the approved details. There shall be no other sources of external illumination.

Reason

In the interests of the amenity of residents of the locality.

- 10 Prior to first occupation of the supported living units hereby approved details of all gates / fences / walls or other means of enclosure shall be submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the development hereby approved and shall be permanently maintained as such.

Reason

In the interests of the appearance of the locality.

- 11 The 6no. supported living units hereby granted permission shall not be occupied at any time other than for purposes ancillary to the existing Care Home use on the application site (Use Class C2) as identified by the site edged in red on Drawing No. 9086 02C. The supported living units shall not be sold, transferred, leased or otherwise disposed of except by way of a disposal comprising the whole of the site edged in red on the approved plans.

Reason

To ensure that the supported living units remain in situ.

- 12 No occupation of the 6no. supported living units hereby granted permission shall take place unless and until the outbuildings as indicated on Drawing No. 9086 02C have been demolished and all resulting materials, including any hardstanding/footings have been removed from the site to the satisfaction of the Local Planning Authority.

Reason

In the interests of protecting the character and appearance of the countryside.

INFORMATION TO APPLICANT

- 1 To avoid disturbance to nesting birds any vegetation clearance should take place outside of the bird nesting season (between 1st March to 31st August inclusive) or if this is not possible a check for nesting birds

must commence prior to any works being undertaken by a suitably qualified ecologist. Any active nesting sites found must be cordoned off and remain undisturbed until young birds have fledged.

The applicant is reminded that, under the Wildlife and Countryside Act 1981 (as amended), it is an offence to remove, damage, or destroy the nest of any wild bird while that nest is in use or being built.

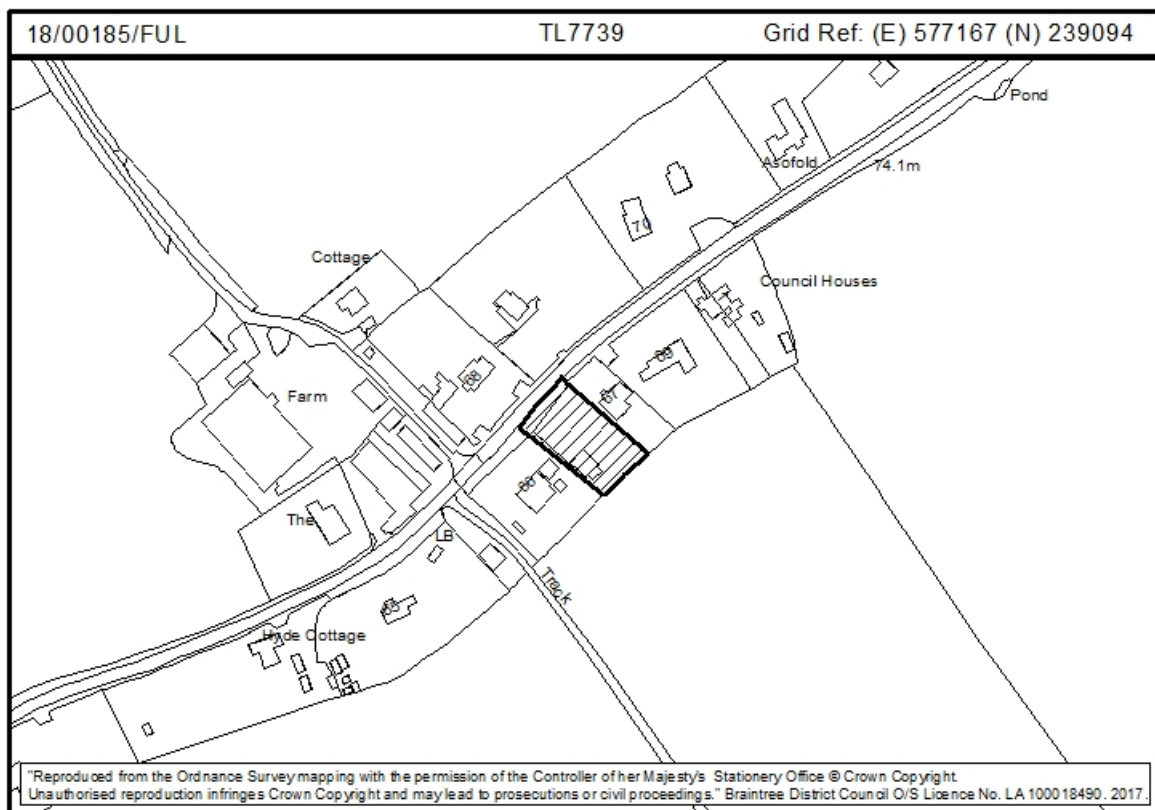
- 2 The applicant is advised that if during demolition works a bat is found all works should cease immediately and a suitable qualified ecologist contacted for further advice.
- 3 All vegetation/scrub clearance of the site should be carried out sensitively and with due care and consideration to reptiles. The applicant is reminded that should reptiles be found all works must be stopped immediately and a suitably qualified ecologist must be contacted for further advice.
- 4 The site has opportunity for ecological enhancement and therefore it is recommended that consideration is given to the installation of appropriate bird and bat boxes within the new build as an integrated feature or affixed to the new building.

TESSA LAMBERT
DEVELOPMENT MANAGER

PART A

APPLICATION NO: 18/00185/FUL DATE: 13.03.18
 VALID:
 APPLICANT: Mr David Brown
 South Barn Coppingdown Farm, Sudbury Road, Castle
 Heddingham, Halstead, Essex, CO9 3AG, United Kingdom
 AGENT: Wild Boar Properties Ltd
 Mr Andrew Temperton, South Barn Coppingdown Farm,
 Sudbury Road, Castle Heddingham, Halstead, Essex, CO9
 3AG
 DESCRIPTION: Change of use of building from B8 Storage to C3 Dwelling
 House to create 2-bedroom house, associated works to the
 building and alterations to vehicular access
 LOCATION: Land Adjacent, 67 Little Yeldham Road, Little Yeldham,
 Essex

For more information about this Application please contact:
 Mr Sam Trafford on:- 01376 551414 Ext. 2520
 or by e-mail to: sam.trafford@braintree.gov.uk



SITE HISTORY

14/01384/FUL	Demolition of existing storage shed and erection of new dwelling and garage		06.05.15
16/01218/ELD	Application for an Existing Lawful Development Certificate - Use of building for B8 storage use - To formalise the use of B8 storage.	Refused then allowed on appeal	05.10.16
17/02217/COUPA	Notification for prior approval for a change of use from storage or distribution buildings (Class B8) and any land within its curtilage to dwelling houses (Class C3) - Change of use of B8 storage building to C3 dwelling	Permission not Required	30.01.18

POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5th June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16th June to 28th July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9th October 2017. The Section 1 of the Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government. The Part 2 Draft Local Plan examination will take place later this year.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

“The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given) and;

The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.

Accordingly the Council can currently afford some weight to the emerging Publication Draft Local Plan 2017.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

National Planning Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP56	Vehicle Parking
RLP74	Provision of Space for Recycling
RLP90	Layout and Design of Development

Braintree District Local Development Framework Core Strategy 2011

CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment

Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP17	Housing Provision and Delivery

Other Material Considerations

Essex Design Guide

- Page 76 & 77 – Amenity Space
- Page 89 - 45° Rule & Overlooking
- Page 81 – 109 – Design

Essex Parking Standards

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This planning application is being heard at the Planning Committee, as the Parish Council have objected to the application, which is contrary to Officer recommendation.

SITE DESCRIPTION

The application site is known as Land Adj. 67 Little Yeldham Road. It is a plot of land containing an existing former piggery building, located outside of any development boundary. There is a field gate providing access off of the public highway.

PROPOSAL

This application seeks full planning permission for the change of use of the building from B8 (storage) to C3 (residential), as well as exterior changes to the building including the provision of a window in the door on the front elevation, and a windowed door on a side elevation.

The application also seeks to install a more formal access from Little Yeldham Road, which would consist of widening the existing field access, and laying a hardstanding.

CONSULTATIONS

Essex Highways – No Objections, subject to conditions.

Environmental Health Officer – No Objection subject to conditions relating to the hours of construction on site; preventing any burning of waste material on site; and requiring the roof to be removed in accordance with asbestos regulations.

Little Yeldham, Tilbury Juxta Clare, and Ovington Parish Council – Raise objection on the following grounds:

- The application is contrary to Policies RLP16 and RLP2, and a previous appeal decision at the site is a material consideration.
- The existing building is not appropriate to be a residential dwelling given its structural stability and condition.
- The plot is not served by any drainage or electricity.
- The existing access is not a formal access.

- The proposal is not appropriate for this area which contains land settlement houses, and the application could set a precedent which would significantly change the character and appearance of the street scene.

REPRESENTATIONS

A site notice was displayed at the front of the site and neighbours were notified by letter. A total of 5 representations were received, which raise objection on grounds that the application would not comply with planning policies, that it would be contrary to a previous appeal decision at the site, that it would be inappropriate for the land settlement area, that it could establish a principle for a further planning application on the site for a larger dwelling, that it could set a precedent for other development, and that the access would be inadequate.

REPORT

Background

In 2014, a planning application for the demolition of the existing shed and erection of a residential dwellinghouse was submitted. In 2015, this application was not determined by the Council by the deadline, and the applicant appealed based on non-determination. This appeal was subsequently dismissed, as the Inspector concluded that the site was isolated, not a sustainable form of development, that it would have an unacceptable impact on the character of its surroundings, and that it could set an unwelcome precedent.

Following this, an application for a lawful development certificate (existing use) was made in 2016, which sought to prove the shed on the site had been used as a storage building for in excess of 10 years. This application was refused by the Council, but subsequently allowed at appeal in 2017.

With the storage use of the shed established, an application for a 'Change of use Prior Approval' was submitted in 2018 which sought to prove planning permission was not required for the change of use of the shed from storage to residential. This application was assessed against the criteria set out in Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and it was found that planning permission was not required. When this application was determined, the relevant part of the Order stated a deadline for the change of use to have been implemented (i.e. the residential use to have begun) by 15 April 2018.

The time between allowing the prior approval application being determined and the deadline for beginning the residential use was not enough to allow the necessary conversions to take place; therefore this planning application has been submitted to extend the amount of time available to implement a residential use to three years.

Notwithstanding this, since the application was submitted and made valid, the deadline within the Permitted Development Order for beginning a residential use under Class P has been amended. Class P now states that a prior approval application must be determined before 10 June 2019, and the residential use to be fully implemented within three years from the date of the approval.

The site therefore still benefits from prior approval to use the building for residential purposes.

Principle of Development

The site falls beyond any of the defined village envelopes in the Braintree District Local Plan Review (2005), in an area where Policy RLP2 of the Local Plan Review states countryside policies apply. Policy CS5 of the Core Strategy states that development, outside town development boundaries, village envelopes and industrial development limits, will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.

Policy CS7 of the Braintree District Core Strategy is also considered relevant. This policy relates to promoting accessibility for all, and requires, amongst other things, that future development will be provided in accessible locations to reduce the need to travel.

The NPPF places a presumption in favour of sustainable development. This means that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Paragraph 55 of the NPPF states “To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.”

As an exception to this policy of rural constraint, policy RLP16 of the Braintree District Local Plan Review 2005 states that “where there is a defined nucleus of at least ten dwellings and where it would not be detrimental to the character of the surroundings, exceptions may be made to Policies RLP2 and RLP12 for the filling of a gap, for a single dwelling, between existing dwellings, in hamlets and small groups of dwellings. This policy will not apply to proposals for individual isolated dwellings, or the extension of ribbon development, and will not apply to gaps, which could accommodate more than one dwelling. Proposals which would set a precedent for the consolidation of sporadic or ribbon development, or for the further infilling of large gaps, will also be resisted.”

When a Planning Inspector considered the appeal in 2015, they concluded with three main points. These were that the site is isolated and not in a

sustainable location; that a dwelling on this plot would result in an unacceptable impact on the character and appearance of the land settlement houses surrounding the site; and that a dwelling on this plot could set an unwelcome precedent for similar plots in the land settlement area.

When considering the first point made by the Inspector, in relation to the site being 'isolated' in the context of Paragraph 55 of the NPPF, Members should be aware of a recent Court of Appeal decision.

The decision of the Court of Appeal was received on 28 March 2018, and has established that isolated new homes are defined as follows:

"... a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand" at [31].

"Whether, in a particular case, a group of dwellings constitutes a settlement, or a 'village', for the purposes of the policy will again be a matter of fact and planning judgment for the decision-maker" at [32].

Importantly the Court of Appeal has confirmed that physical isolation is the only matter in determining whether a site is isolated for the purposes of Paragraph 55 of the NPPF.

Although, in Officers' view, the first point made by the Inspector (that the site is 'isolated' in the context of Paragraph 55 of the NPPF), no longer holds given this Court of Appeal judgement (it is apparent that the site is surrounded by a cluster of residential development which would prevent the site being 'isolated' in light of the Judgement), the other two points still stand, which relate to the character and appearance of the surrounding area and the potential for setting an unwelcome precedent.

Fall-back Position

Notwithstanding the above assessment, the 'change of use prior approval' consent granted earlier in 2018 must be attached weight, as it represents a realistic fall-back position.

When determining what represents a fall-back position in this regard, the High Court ruling *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314 is relevant. The ruling ascertained that it must be assessed whether a fall-back position is realistically likely to be implemented. If it is then it should be afforded weight in the decision making process.

In the case of this application, it is considered that there is a realistic likelihood that the existing storage shed could be converted into a residential dwellinghouse using Class P, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), especially as prior approval has already been approved to allow

this to take place. Following a change in the wording of this section of the Order, the applicants have three years from the date of the decision (until 14 August 2020), in which to implement this.

There is a realistic fall-back position in this case and this forms a material planning consideration which should be afforded due weight when determining the application.

The site already has the benefit of consent to use the existing building for residential purposes. In this regard, the principle of the proposed development has already been established as being accepted; despite the policy objections and the previous appeal decision, which related to a new dwelling rather than conversion. Officers consider that to refuse the principle of a residential dwelling on this site would be to ignore the fact there is an active consent which allows a residential dwelling on the site.

The application is considered to be acceptable in this regard.

Design, Appearance and Layout

The proposed residential unit would take place within the existing building on the site. In this regard, impacts on the street scene by virtue of introducing an inappropriately designed new building would be minimised (one of the Planning Inspector's reasons for dismissing the previous appeal); and again, the present building already has the benefit of consent to be used for residential purposes. The only alterations required to the exterior of the building in order to allow it to function as a dwelling would be fenestration detailing and changing the roofing materials. These alterations alone would not result in the building having an unacceptable impact on the character and appearance of the street scene. Although residential paraphernalia which would undoubtedly come about through the creation of a new house on the site (i.e. parked cars at the front of the site, formally laid out pathways, sheds etc.) would likely affect the street scene, these have to be accepted to a degree by virtue of the residential use being acceptable in principle. Notwithstanding this, they can be controlled to a point through the removal of permitted development rights (Condition 3 as recommended by Officers), which would allow the Local Planning Authority to maintain control over any extensions, additions to the roof or outbuildings by requiring planning permission for such alterations and therefore giving Officers the opportunity to consider their impacts.

The proposed plans show the new dwelling would be accompanied by an area of land surrounding it, which could be used as amenity space in accordance with the Council's adopted standards.

The Parish Council's objections relating to the structural stability of the building and its potential for conversion without being majorly reconstructed are noted; however in terms of this planning application this is not considered to be a determining factor in this particular case; this is not part of the consideration for Class P, Part 3, Schedule 2 of the Town and Country

Planning (General Permitted Development) (England) Order 2015 (as amended), and therefore it would not be reasonable to consider at this stage whether the building is capable of conversion. If works are required to the building in order to make it habitable, then they would, according to the proposed plans, result in the building appearing identical to the existing building except for the fenestration detailing.

Taking the above assessment into account, Officers consider that in terms of design, appearance and layout, the application is acceptable.

Impact on Neighbour Amenity

Policies RLP90 from the Braintree District Local Plan Review and Policy LPP 55 of the Braintree District Publication Draft Local Plan allow for new development where there would be “no unacceptable or undue impact” on neighbouring residential amenities by way of loss of “privacy, overshadowing, loss of light or overbearing impact.”

When the Planning Inspector considered the previous appeal for a residential dwelling on the site, they found that there was no evidence to suggest that a dwelling would have an unacceptable impact on the residential amenities of the dwellings on either side. A smaller dwelling than that proposed before would likely reduce any impacts further. Therefore the application is considered acceptable in this regard.

The NPPF states that new development should “always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”. This includes the resultant dwellinghouse being created in this application.

The proposed dwelling would be relatively small in terms of its floorspace; the plans show it would provide two bedrooms; a living room, and a kitchen/diner room. The floor area of the new dwelling would be approximately 71sqm. This would be more than is required by the Nationally Described Space Standards, which for a dwelling for 3 people requires 60sqm, and each of the rooms would have a window allowing in natural light.

Officers consider that an acceptable level of amenity for the occupiers of the proposed new dwelling would be provided. If building regulations requires the appearance of the building to be changed, then the Council will have another opportunity to consider any alterations through either the non-material or minor material amendment process.

Highway Issues

There is an existing access from the public highway onto the application site, however this is a field access and has never been formally considered by the highway authority. As part of this application, the access would clearly be utilised on a far more regular basis. The proposals include alterations to the access in order to make it safer for the occupants and the users of the

highway. The alterations would include widening the existing access and laying a hardstanding (at present it is grass).

The Highway Authority raise no objections; the proposed plans show there would be adequate visibility splays in each direction. They recommend conditions requiring the visibility splays to be kept clear at a distance of 2.4m from the edge of the highway, and requiring there to be no loose materials within 6m of the highway. These conditions have been recommended at conditions 4 and 5.

There is clearly enough space to allow the parking of at least two vehicles spaces of 2.4m x 5.5m, in accordance with the Council's adopted standards.

CONCLUSION

The application represents a new residential dwellinghouse in a location which hasn't been supported historically for development. Notwithstanding this, the building benefits from prior approval for conversion to residential and this must be considered as a realistic fall-back position. With this in mind, the principle of development has been established and it would be unreasonable to now determine otherwise. All other material considerations have been taken into account, and have been found to be acceptable. Officers therefore recommend the application is approved, subject to conditions.

RECOMMENDATION

It is RECOMMENDED that the following decision be made:
Application GRANTED subject to the following conditions and reasons and in accordance with approved plans:-

APPROVED PLANS

Existing Elevations	Plan Ref: 012/008	
Proposed Floor Plan	Plan Ref: 012/009	
Existing Elevations	Plan Ref: 012/010	
Proposed Elevations	Plan Ref: 012/011	
Existing Site Plan	Plan Ref: 012/012	
Access Details	Plan Ref: 012/013	
Location Plan	Plan Ref: 012/007	Version: B

- 1 The development hereby permitted shall begin not later than three years from the date of this decision.

Reason

This Condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed above.

Reason

For the avoidance of doubt and in the interests of proper planning.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwelling-house / provision of any building within the curtilage of the dwelling-house, as permitted by Classes A, B, and E of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the local planning authority.

Reason

To ensure the development does not prejudice the character and appearance of the street scene through additions and to protect the amenities and privacy of adjoining occupiers.

- 4 Prior to occupation of the development, the access shall be provided with a 2.4 metre parallel band visibility splay, as measured from and along the nearside edge of the carriageway. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times.

Reason

To provide adequate inter-visibility between the users of the access and the existing public highway for the safety and convenience of users of the highway and of the access.

- 5 No unbound material shall be used in the surface finish of the driveway within 6 metres of the highway boundary of the site.

Reason

To avoid displacement of loose material onto the highway in the interests of highway safety.

- 6 The external materials and finishes shall be as indicated on the approved plans and/or schedule.

Reason

To ensure that the development does not prejudice the appearance of the locality.

INFORMATION TO APPLICANT

- 1 There shall be no drainage of surface water on to the public highway.
- 2 All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

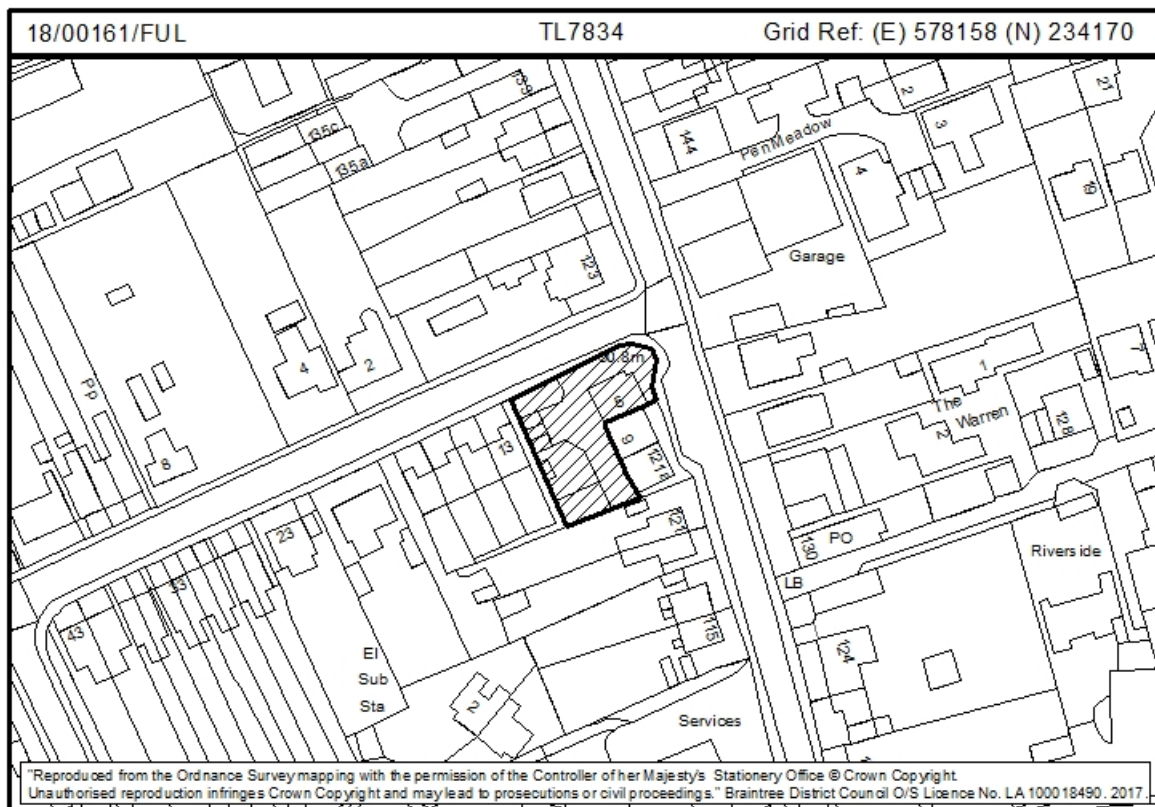
The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: SMO1 - Essex Highways, Colchester Highways Depot, 653, The Crescent, Colchester Business Park, Colchester CO49YQ

TESSA LAMBERT
DEVELOPMENT MANAGER

PART B

APPLICATION 18/00161/FUL DATE 25.01.18
 NO: VALID:
 APPLICANT: Clapton Construction & Investment Co. Ltd
 Mr P Hanmer, 15/16 Mercers Row, Cambridge,
 Cambridgeshire, CB5 8HY
 AGENT: Wakefield Poyser
 Mr Jeremy Poyser, Parndon Mill, Parndon Mill Lane,
 Harlow, Essex, CM20 2HP
 DESCRIPTION: Erection of two storey side extension to provide additional
 space for Cafe use with a Studio Apartment over.
 LOCATION: 121C Swan Street, Sible Hedingham, Essex, CO9 3ND

For more information about this Application please contact:
 Mr Sam Trafford on:- 01376 551414 Ext. 2520
 or by e-mail to: sam.trafford@braintree.gov.uk



SITE HISTORY

90/01810/PRHN	Erection Of Extension To Shop And Residential Accommodation Over	Granted	29.01.91
96/01498/FUL	Erection of two storey side extension with proposed retail use on ground floor and residential accommodation on first floor	Granted	07.03.97
97/00032/FUL	Erection of new building with ground floor A2 use and studio flat on first floor	Granted	04.04.97
09/01149/FUL	Change of use of existing premises to A3 use	Granted	03.11.09

POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5th June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16th June to 28th July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9th October 2017. The Section 1 of the Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government. The Part 2 Draft Local Plan examination will take place later this year.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

“The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given) and;

The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.

Accordingly the Council can currently afford some weight to the emerging Publication Draft Local Plan 2017.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

National Planning Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Braintree District Local Plan Review 2005

RLP3	Development within Town Development Boundaries and Village Envelopes
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP56	Vehicle Parking
RLP90	Layout and Design of Development
RLP126	Local Shopping Facilities
RLP127	Additional Village Shopping

Braintree District Local Development Framework Core Strategy 2011

CS6	Retailing and Town Centre Regeneration
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment

Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP10	Retailing and Regeneration
LPP17	Housing Provision and Delivery
LPP37	Housing Type and Density
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development

Other Material Considerations

Essex Design Guide

- Page 76 & 77 – Amenity Space
- Page 89 - 45° Rule & Overlooking
- Page 81 – 109 – Design

Essex Parking Standards

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

The application is being heard at Planning Committee as Sible Hedingham Parish Council have objected to the application, which is contrary to Officer recommendation.

SITE DESCRIPTION

The site consists of an existing parade of shop units with flats above. The site is located within the development boundary of Sible Hedingham, on the corner of Swan Street and Alexandra Road. To the side of the site, there is a piece of open space consisting of a hardstanding, which is used for occasional informal parking. To the rear of the parade is an existing parking area.

PROPOSAL

The planning application proposes a two storey side extension. The extension would contain a continuation of an existing A3 café at ground floor, and a residential flat above. It would use materials to match those on the existing parade.

BACKGROUND

In 1987, planning permission for a similar proposal to that proposed within this planning application was refused by the Local Planning Authority, and then allowed at appeal by a Planning Inspector in 1989. Following this, in 1996 and 1997, planning permission was granted for the erection of a two storey side extension to the existing parade of shops, which would continue a shop at ground floor and have a single residential dwelling at first floor. This planning permission was never implemented, and has now expired.

CONSULTATIONS

Essex Highways – No Objections, subject to a condition requiring the new parking spaces being fully laid out prior to occupation.

Environmental Health Officer – No Objections subject to conditions restricting the hours of construction on site and preventing burning of waste materials on site.

Economic Development – Support the application, as 4 jobs would be created, it would enhance facilities within Sible Hedingham, it would improve the appearance of the parade, it would improve the local economy, and it wouldn't prejudice other facilities of a similar use.

REPRESENTATIONS

A site notice was displayed on a telegraph pole outside the site, and neighbours were notified by letter. A total of 39 representations were received, 2 of which raise objection to the application on grounds of parking and increased traffic, and 37 of which support the application as they consider it would improve the customer experience without prejudicing parking.

REPORT

Principle of Development

A similar development has already been granted planning permission in 1989, 1996 and again in 1997, however planning policy has changed since then with the introduction of the Braintree District Local Plan Review, Braintree District Core Strategy, the Braintree District Publication Draft Local Plan and the NPPF and therefore it would be necessary to ensure the application is in accordance with the latest planning policy documents and guidance.

Paragraph 28 of the National Planning Policy Framework is supportive of the development of rural services, including local shops. Policy RLP126 of the Braintree District Local Plan Review allows for new shops in local centres where they are required to meet the needs of a local neighbourhood; so long as the shop would be of a scale and size appropriate for the area, there would be sufficient parking; there would be no unacceptable impact on neighbours; the proposal wouldn't have an unacceptable impact on the vitality of the existing neighbourhood; and there would be no unacceptable increase in traffic movements. Furthermore, policy RLP 127 allows for the provision of additional shops in villages providing there are no overriding environmental or highway constraints.

Policy RLP128 of the Braintree District Local Plan Review relates to the maintenance of rural services and facilities. This states "Within the rural areas, support will be given to the continuance of services and facilities, in order to maintain community life. Proposals which would lead to the loss of village facilities will not be permitted unless sufficient evidence is provided to demonstrate that they are not viable and that all options for their continuance have been fully explored."

At first floor, it is proposed there would be a one bedroom flat. In terms of new residential development, policies RLP3 of the Braintree District Local Plan Review and LPP1 of the Braintree District Publication Draft Local Plan are relevant. They state that new residential development should be contained within existing development boundaries. The application site is situated within the development boundary of Sible Hedingham.

The application is considered acceptable in principle. All other material considerations are discussed below.

Design, Appearance and Layout

The NPPF states that new development should seek to improve “streetscapes and buildings to create attractive and comfortable places” by using design which reflects “local character and history, and reflect the identity of local surroundings and materials”, thereby resulting in a form of development which is “visually attractive as a result of good architecture and appropriate landscaping.”

Policy RLP3 of the Braintree District Local Plan elaborates on this in a local context, permitting new residential development within village envelopes and town development boundaries where it satisfies amenity, design, environmental and highway criteria and where it can take place without material detriment to the existing character of the settlement.

In the case of this application, the site is located in the centre of Sible Hedingham and adjacent to an existing parade of shops. The proposed extension wouldn't introduce a new shop unit at ground floor; it would represent an extension to an existing shop. The existing shop would remain 'of a scale and size appropriate for the area', according with Policy RLP126 and LPP10.

The proposed extension would represent a continuation of the existing shopping parade mimicking its design. It would use matching materials, and the ridgeline would carry over such to appear as a natural continuation of the existing building. There would be new fenestration in the side elevation which would add interest in what would have otherwise been a large blank elevation, and would allow for natural surveillance. The extension would appear in keeping with this section of Swan Street, within which the existing shopping parade is fairly prominent. It is considered that, in terms of its design and appearance, the proposed extension is acceptable and would not give rise to an unacceptable impact on appearance of the street scene satisfying the abovementioned policies.

The application doesn't propose any external amenity space for the occupants of the first floor flat. Notwithstanding this, the Essex Design Guide doesn't specifically require flats with less than 2 bedrooms to be provided with amenity space and this is not considered objectionable in this case.

Impact on Neighbour Amenity

The NPPF states that new development should “always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”, whilst policies RLP90 from the Braintree District Local Plan Review and Policy LPP55 of the Braintree District Publication Draft Local Plan allow for new development where there would be

“no unacceptable or undue impact” on neighbouring residential amenities by way of loss of “privacy, overshadowing, loss of light or overbearing impact.”

The proposed extension would not have any physical impacts upon any nearby neighbouring residential amenities, as it is located adjacent to a public highway and backs onto an open space used for parking.

The parking area to the rear is located adjacent to a residential dwelling, known as 13 Alexandra Road. There is likely to be a degree of harm currently being caused to their residential amenities by vehicle movements in and out of the parking area. It is considered that the provision of a new residential unit above the extension and the extension to the existing café below is unlikely to generate extra traffic to the point where it would result in a noticeable increase in movement or impacts upon neighbouring residential amenities.

Notwithstanding this there are a number of dwellings in the wider context which could be impacted upon during the construction of the development. To mitigate these impacts, the Environmental Health Officer recommends conditions restricting the hours of working on site to Monday-Friday 09:00 until 18:00, and Saturday 08:00 – 13:00. They also recommend preventing any burning of refuse materials resulting from the construction on site, however this condition is not required in order to make the development acceptable and therefore is not necessary.

It is considered that with these conditions in place, the residential amenities of neighbouring residential dwellings would be protected.

Highway Issues

The Council refers to the latest adopted version of Essex Parking Standards Design and Good Practice (2009), which requires new residential dwellinghouses of less than two bedrooms to benefit from a minimum of one car parking space. The standards specify that parking spaces shall measure at least 5.5 metres x 2.9 metres.

The parade of shops benefits from an existing car parking area to the rear, and a layby to the front. The proposal would include the provision of two extra car parking spaces in the area to the rear, in place of an existing grassed square; both spaces would measure the required 5.5m x 2.9m. One of these spaces would serve the residential unit, and the other would be an additional space for the café.

Following consultation with the highway authority, no objection has been raised, subject to a condition requiring the new car parking spaces to be provided prior to the occupation of the new residential unit.

The existing access onto the site is already used for access for residential and commercial purposes. It is not considered that to use it for an additional residential unit would have any detrimental impact on highway safety.

CONCLUSION

Officers consider that this planning application represents an extension to an existing building in a location which would not prejudice the street scene and would be appropriate in its design in relation to the existing building. The extension would contain a ground floor extension to an existing café, which is served by off street parking, and which complies with local and national policy in respect to village facilities. The new residential unit at first floor would be in a sustainable location, and be served by an acceptable amount of parking.

Taking all this into account, Officers recommend the application is approved planning permission.

RECOMMENDATION

It is RECOMMENDED that the following decision be made:
Application GRANTED subject to the following conditions and reasons and in accordance with approved plans:-

APPROVED PLANS

Location Plan	Plan Ref: 1600/01	Version: A
Existing Plans	Plan Ref: 1600/02	
Proposed Plans	Plan Ref: 1600/03	

- 1 The development hereby permitted shall begin not later than three years from the date of this decision.

Reason

This Condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed above.

Reason

For the avoidance of doubt and in the interests of proper planning.

- 3 The development shall not be occupied until the car parking area indicated on the approved plans has been hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times. The car park shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason

To ensure adequate parking space is provided in accordance with the Council's adopted Parking Standards.

- 4 No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:-

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Sundays, Public and Bank Holidays - no work

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area.

- 5 The external materials and finishes shall be as indicated on the approved plans and/or schedule.

Reason

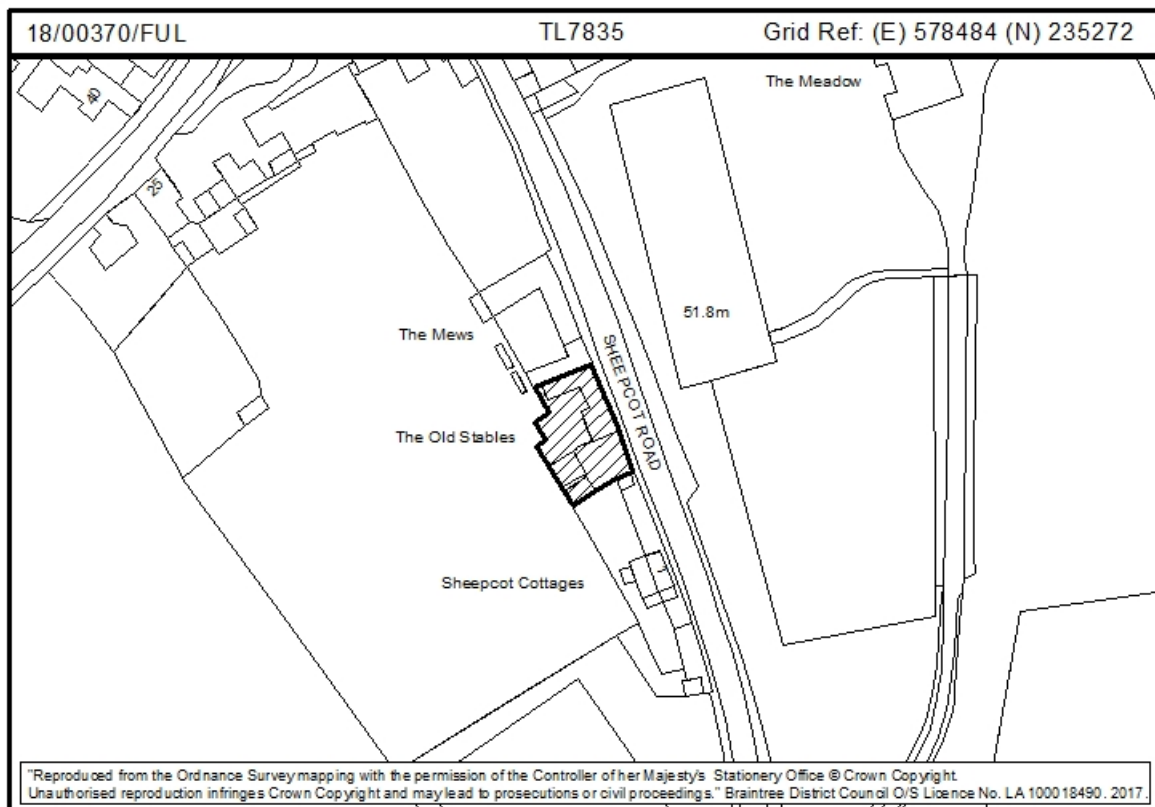
To conform with the pattern of the existing development in the locality.

TESSA LAMBERT
DEVELOPMENT MANAGER

PART B

APPLICATION 18/00370/FUL DATE 23.02.18
 NO: VALID:
 APPLICANT: Mr Tim Peal
 Willowbrook, Bardfield Road, Bardfield Saling, Essex, CM7 5EN
 AGENT: Mandy Sexton Architect
 Mrs Mandy Sexton, The Old Rectory, Colchester Road, Chappel, CO6 2AE
 DESCRIPTION: Conversion of garage to annexe
 LOCATION: The Old Stables, Sheepcot Road, Castle Hedingham, Essex, CO9 3HB

For more information about this Application please contact:
 Mrs H Reeve on:- 01376 551414 Ext. 2503
 or by e-mail to: helen.reeve@braintree.gov.uk



SITE HISTORY

92/00061/REF	DC Appeal	Appeal Allowed	16.10.92
88/00434/P	Change Of Use Of Garage To Dwelling	Granted	20.07.88
91/00169/E	Proposed Extension		
91/01507/PFHN	Proposed Demolition Of Garages To Form Residential Unit		06.02.92

POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5th June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16th June to 28th July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9th October 2017. The Section 1 of the Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government. The Part 2 Draft Local Plan examination will take place later this year.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

“The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given) and;

The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.

Accordingly the Council can currently afford some weight to the emerging Publication Draft Local Plan 2017.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin

work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

National Planning Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP18	Extensions to Existing Dwellings in the Countryside
RLP56	Vehicle Parking
RLP90	Layout and Design of Development

Braintree District Local Development Framework Core Strategy 2011

CS5	The Countryside
-----	-----------------

Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP38	Residential Alterations, Extensions and Outbuildings
LPP45	Parking Provision
LPP55	Layout and Design of Development

INTRODUCTION/REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being presented to Committee because the Parish Council have objected, contrary to Officer recommendation.

SITE DESCRIPTION

The site is located to the south of Castle Hedingham, beyond the village envelope and conservation area, within the countryside. The site itself comprises the Old Stables, a converted single storey dwelling which directly abuts the highway, with a small rear garden, vehicular driveway and two garages close to the dwelling.

Although beyond the village envelope, the dwelling is located within a small cluster of residential properties, including The Mews directly to the north of the site and Sheepcot Cottages, to the south.

PROPOSAL

This application is seeking planning permission to convert an existing double garage on site into an annexe. The external alterations would comprise the insertion of roof windows in both roof slopes and general fenestration re-arrangement with the removal of double garage doors. Black stained featheredge weatherboarding would be affixed to the existing blockwork walls and the roof would be replaced, using existing roof tiles where possible. There would be no increase in the overall footprint and height of the garage.

The proposed internal layout would comprise an open plan living, dining and kitchenette area with separate w.c. A first floor would be created for 1 bedroom and a shower room.

The overall external dimensions of the proposed garage would remain as existing – 5.5 metres x 6.2 metres with an overall height of 2.5 metres.

CONSULTATIONS

Castle Hedingham Parish Council have raised objection to the application on the grounds that it is a new separate dwelling in the countryside.

REPRESENTATIONS

A site notice was displayed on the side wall of the host dwelling, abutting the road and nearby neighbours were notified. No neighbour representations have been received.

REPORT

Principle of Development

The site lies within the countryside, wherein countryside policies apply. Policy CS5 of the Core Strategy states that development outside town development boundaries, village envelopes and industrial development limits, will be strictly controlled to uses appropriate to the countryside, in order to protect the landscape character and biodiversity, geodiversity and amenity of the countryside.

RLP18 allows for the annexe accommodation for dependent relatives, however to be considered as an annexe, the building must have both a physical and functional relationship with the main dwelling. Given the facilities proposed within the annexe, i.e. toilet, kitchen and bedroom facilities, it is considered that the building could potentially function independently as a residential unit.

The site lies within an area of countryside beyond the defined development boundary of any settlement. Policy RLP2 of the Braintree District Local Plan Review states that new development will be confined to areas within Town

Development Boundaries and Village Envelopes and outside of these areas countryside policies will apply. Policy CS5 of the Core Strategy states that development outside town development boundaries, village envelopes and industrial development limits will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. Policy RLP18 makes provision for the extension of existing residential premises in the rural areas, including the provision of self-contained annexes to meet the needs of dependent relatives, providing such development is compatible with the scale and character of the existing dwelling and the plot on which it stands.

There is no planning definition of an annexe, however it is generally accepted through case law that in order for an annexe to be considered as such, and not a new dwelling in the countryside (which would be contrary to policy), there should be a physical and functional relationship between the annex and the main house. This should be apparent in terms of the physical proximity of the annexe to the main dwelling and there would be an expectation that the dependent relative would not function independently and there would be some element of care in relation with the host dwelling.

The applicant has stated that the occupant of the annexe would be an elderly relative and would be dependent on the main house for main meals and washing of clothes and bedding.

The annex contains all the amenities that could allow it to function independently as a separate dwelling. However, the size of the building is small and subsequently the facilities provided are limited. In addition, given the overall size of the plot and close proximity to the host dwelling, the building could not easily be used and occupied as a separate dwelling. It is therefore considered that although the annexe contains facilities to operate independently, it clearly has a physical and functional relationship with the host dwelling and is considered an annexe, rather than a separate residential unit, complying with Policy RLP18 of the Local Plan Review.

It is recommended that a condition be imposed to ensure it remains as part of the host dwelling and not sold/leased/hired out separately.

Design and Appearance

Policy RLP90 of the Braintree District Local Plan Review, states development will only be permitted where it satisfies amenity, design, and highway criteria and where it can take place without detriment to the existing character of the area, provided that there is no over development of the plot, the siting, bulk, form and materials of the extension are compatible with the original dwellings and among other issues, there should be no unacceptable adverse impact on the amenities of adjoining residential properties, including on privacy, overshadowing and loss of light.

Policy CS9 of the Braintree District Core Strategy states that the Council will promote and secure the highest possible standards of design and layout in all

new development and the protection and enhancement of the historic environment in order to respect and respond to the local context.

The NPPF sets out a presumption in favour of sustainable development. In paragraph 56, the NPPF highlights that good design is a key aspect of sustainable development. Paragraph 57 highlights that it is important to achieve high quality and inclusive design for all land and buildings. If a proposal fails to achieve good design, paragraph 64 stipulates that permission should be refused where the design fails to improve the character and quality of an area. The NPPG (paras. 23 – 28) elaborates on this in a residential context, by requiring Local Planning Authorities to consider whether the layout, scale, form, details and materials come together to “help achieve good design and connected objectives” for the context of the site.

Policy RLP18 of the Braintree District Local Plan Review and Policy LPP38 of the Braintree District Publication Draft Local Plan states outbuildings within the plot of existing dwellings will be acceptable, so long as there is no over-development of the plot when taking into account the footprint of the existing dwelling and the relationship to plot boundaries; and so long as the outbuilding would be subordinate to the original dwelling in terms of bulk, height and position.

The proposed annexe would utilise an existing double garage. There would be no increase in height or footprint. There would be some fenestration and material amendment and roof lights would be installed to allow for a first floor. The external alterations would be minimal and with the garage set back from the road, they would barely be noticeable within any wider street scene. The proposal complies with Policy RLP18 in this regard.

Impact on Neighbour Amenity

The NPPF states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

RLP 90 states there should be no undue or unacceptable impact on the amenity of any nearby residential properties.

Residential neighbours are some distance away from the building itself and it is not altering in terms of size. There would not be any overbearing or overshadowing issues, therefore. It is noted that roof lights are proposed on both sides of the roof, the smaller ones of which would face south, towards the garden of 2 Sheepcot Cottages. The upper roof light would serve the shower room and the lower windows would serve a void area and in any case any views out would be completely obscured by the existing garage on site.

It is not considered that the proposed annexe would impact adversely on the amenities of adjoining residential properties.

Highway Issues

The double garage would no longer serve as off-street parking. However 2 parking spaces are available within the driveway area which meets the current adopted Car Parking Standards (2009) in terms of size and number – the proposal would not therefore result in a reduction in off-street car parking provision below current standards and is therefore acceptable in this respect.

CONCLUSION

It is considered the proposed conversion of the existing garage to an annexe is acceptable and meets the necessary assessments to be considered as an annexe, given its limited size and close proximity to the main dwelling and would serve a dependent relative. It is not considered to be a separate residential unit and as above, given the limited space within the site and the building itself, could not easily function as a separate unit. A condition is recommended to ensure the annexe remains ancillary to the main dwelling.

RECOMMENDATION

It is RECOMMENDED that the following decision be made:
Application GRANTED subject to the following conditions and reasons and in accordance with approved plans:-

APPROVED PLANS

Existing Plans	Plan Ref: 001	
Location / Block Plan	Plan Ref: 002	
Proposed Plans	Plan Ref: 003	Version: A
Proposed Plans	Plan Ref: 004	Version: B

- 1 The development hereby permitted shall begin not later than three years from the date of this decision.

Reason

This Condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed above.

Reason

For the avoidance of doubt and in the interests of proper planning.

- 3 The external materials and finishes shall be as indicated on the approved plans.

Reason

To ensure that the development does not prejudice the appearance of the locality.

- 4 The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as The Old Stables. It shall not be sold, transferred, leased or otherwise disposed of as an independent residential unit without first obtaining planning permission from the local planning authority.

Reason

The site lies in a rural area where development other than for agricultural purposes is not normally permitted.

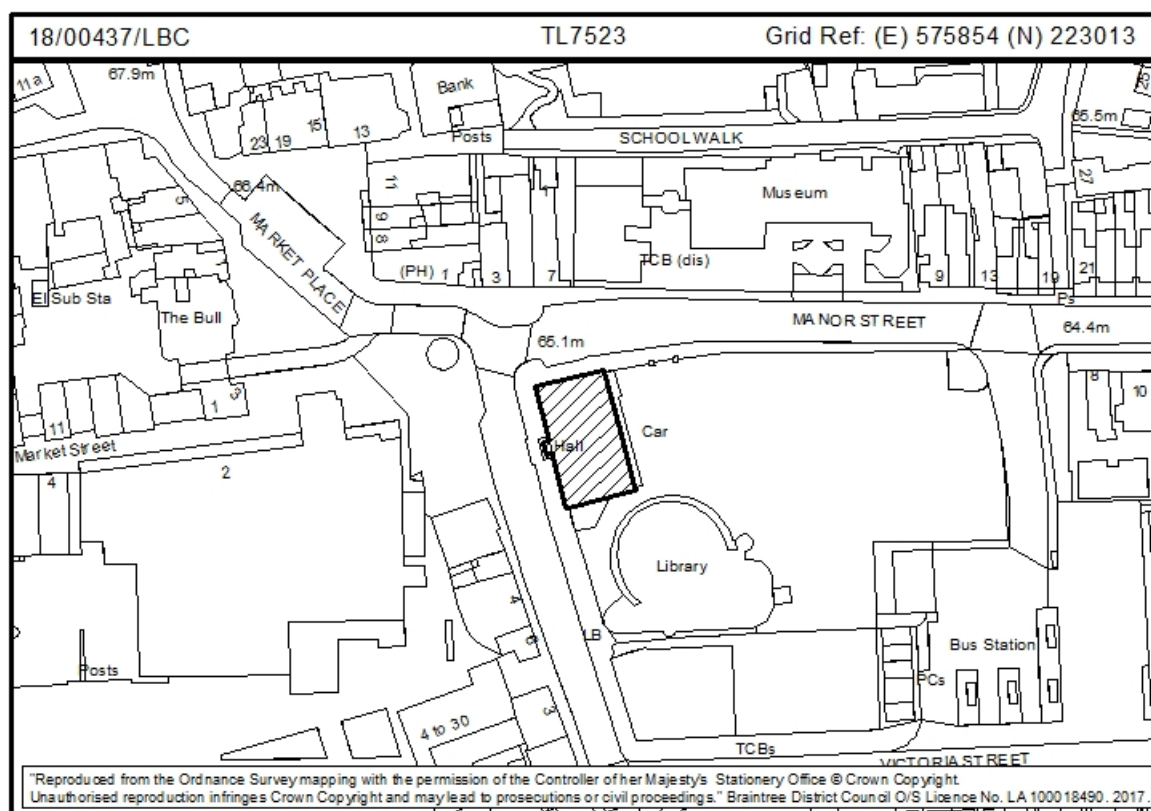
TESSA LAMBERT
DEVELOPMENT MANAGER

AGENDA ITEM NUMBER 5g

PART B

APPLICATION NO: 18/00437/LBC
 DATE: 15.03.18
 VALID:
 APPLICANT: Braintree District Council
 Mr Joby Humm, Causeway House, Bocking End, Braintree,
 Essex, CM7 9HB, Braintree Town Hall, Fairfield Road,
 Braintree, CM73YG, Essex
 DESCRIPTION: Internal alterations
 LOCATION: Town Hall Centre, Fairfield Road, Braintree, Essex, CM7
 3YG

For more information about this Application please contact:
 Ellie Scott on:- 01376 551414 Ext.
 or by e-mail to: ellie.scott@braintree.gov.uk



SITE HISTORY

04/00520/LBC	Installation of upgraded security alarm system	Granted	20.12.04
91/00433/E	Access By Disabled		
92/00429/PFBN	Alterations And Construction Of Ramp For Access For The Disabled	Withdrawn	15.06.93
94/00040/BDC	Proposed access for the disabled; Construction of ramp on part Manor Street footpath & internal alterations and alteration to Manor street carriageway, footpath and taxi rank to accommodate ramp	Withdrawn	28.09.94
94/00041/LBC	Proposed access for the disabled; construction of a ramp and steps on part Manor Street footpath and general internal alterations and alterations to Manor street carriageway, taxi rank to accommodate ramp. Provision of disabled toilet.	Withdrawn	28.09.94
96/00721/FUL	Proposed alterations to existing south and east elevations to create new access and escape doors including minor internal modifications and related external works	Granted	11.11.96
96/00722/LBC	Alterations to existing south and east elevations to create new access and escape doors including internal modifications and related external works	Granted	11.11.96
05/00094/LBC	Installation of lift and alterations to toilet	Granted	23.09.05
05/01911/LBC	Installation of a cabled computer data network	Granted	18.11.05
06/00556/LBC	Installation of CCTV system, replacement of inner lobby front entrance doors, installation of first floor ceiling crawlway access, installation of anti-pigeon netting to clock tower and repairs and	Granted	06.06.06

07/01391/LBC	remedial works to floorboards in art gallery Removal of existing window to boiler room and replacement with ventilation grille	Granted	04.10.07
10/01065/LBC	Interior and exterior cleaning of limestone cladding and adaption of Art Gallery, Arts Development, Tourism and Manager's Offices into rooms suitable for meetings	Granted	07.12.10
10/01570/LBC	Installation of secondary double glazing window units fitted to all meeting rooms excluding Council Chamber French doors, stained glass window on staircase and basement windows	Withdrawn	01.08.11
12/00314/LBC	Erection of a blue plaque to commemorate the Protestant martyr William Pygot who was publicly burnt near to this spot on 28 March 1555	Granted	01.05.12
16/00089/LBC	Installation of aluminium framed secondary glazing units to first and ground floor	Granted	10.08.16
16/02138/LBC	Installation of external flue as part of boiler installation	Granted	15.02.17
17/00618/LBC	Installation of aluminum framed secondary glazing units to Chairman's office, doors in main council chamber and ground floor kitchen	Granted	21.06.17

POLICY CONSIDERATIONS

Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20th June 2016 and was the subject of public consultation between the 27th June and 19th August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5th June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16th

June to 28th July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9th October 2017. The Section 1 of the Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government. The Part 2 Draft Local Plan examination will take place later this year.

In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

“The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given) and;

The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.

Accordingly the Council can currently afford some weight to the emerging Publication Draft Local Plan 2017.

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

National Planning Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP3	Development within Town Development Boundaries and Village Envelopes
RLP17	Extensions and Alterations to Dwellings in Towns and Villages
RLP90	Layout and Design of Development
RLP95	Preservation and Enhancement of Conservation Areas

RLP100 Alterations and Extensions and Changes of Use to Listed Buildings and their settings

Braintree District Local Development Framework Core Strategy 2011

CS9 Built and Historic Environment

Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP38	Residential Alterations, Extensions and Outbuildings
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP56	Conservation Areas
LPP60	Heritage Assets and their Settings

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought before the Planning Committee because the applicant is Braintree District Council.

SITE DESCRIPTION

The application site comprises Braintree Town Hall and is located on Fairfield Road, in the centre of Braintree. The building is listed Grade II* and occupies a prominent location within the Braintree Conservation Area, at the centre of Market Place.

PROPOSAL

This application seeks Listed Building Consent for works including forming a new section of plasterboard ceiling over the toilet lobby space. This would be formed with C16 grade timber batons fixed to the wall over the entrance into the lobby. A new stud wall would be formed along the line of the existing ladies toilet and to a height matching the wall of the gentlemen's toilet. The wall's timber sole plate would rest upon, but not be fixed to, the existing head section of the ladies toilet wall and secured at both ends to the timber studwork wall. This wall would then be lined on both sides with tape and joint plasterboard. On the outside [ladies] side, a matching MDF capping section would be added to match the existing gents toilet detail. The ceiling would be formed with C16 grade timber joist crossing the narrower width, attached to the stud wall, wall plate and masonry wall baton timbers with galvanised wall hangers. The underside of this timber work would again be taped and joined in plasterboard.

CONSULTATIONS

Historic England: Summary of comments below:

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation adviser.

Historic Building Consultant: Summary of comments below:

The proposed works are limited in their scope and intrusion, and are limited to an area of lower significance within the building. They would allow for the continued viable use of the building as an events venue, which is considered to be its optimum viable use. I therefore do not believe that the works would result in harm to the significance of the listed building, and I would therefore offer no objection from a conservation perspective.

Joint Committee Of the National Amenity Societies – No comments received.

REPRESENTATIONS

A site notice was displayed opposite to Braintree Town Hall for a 21 day period. No representations have been received.

REPORT

Principle of Development

When considering the impact of development on a historical asset the National Planning Policy Framework (NPPF) specifically states in paragraph 132 that "when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification".

Policy RLP100 of the Braintree District Local Plan Review supported by Policy CS9 of the Braintree District Core Strategy and Policy LPP60 of the emerging Braintree District Publication Draft Local Plan states inter alia that works will be permitted where they do not harm the setting, character, structural stability and fabric of the building (or structure); and will not result in the loss of, or significant damage to the building or structure's historic and architectural elements of special importance, and include the use of appropriate materials and finishes.

The proposed works should be assessed on their impact on the character of the listed building. In this case, the works are considered to be limited in their

scope and intrusion and would not result in harm to the significance of the listed building as confirmed in comments from the Historic Buildings Consultant. The proposed works would allow the continued use of the building as an events venue, which is the optimum viable use of the building.

CONCLUSION

It is considered that the works would not result in harm to the Listed Building and therefore the proposed works would comply with Policy RLP100 of the Braintree District Local Plan Review and Policy LPP60 of the emerging Braintree District Publication Draft Local Plan. Thus it is recommended that listed building consent should be granted.

RECOMMENDATION

It is RECOMMENDED that the following decision be made:
Application GRANTED subject to the following conditions and reasons and in accordance with approved plans:-

APPROVED PLANS

Location Plan

Proposed Plans

Plan Ref: 18-1459-002

Floor Plan

- 1 The works hereby permitted shall begin not later than three years from the date of this decision.

Reason

This Condition is imposed pursuant to Section 18 of the Planning (Listed Building & Conservation Areas) Act 1990.

- 2 The works hereby permitted shall be carried out in accordance with the approved plans listed above.

Reason

To ensure that the work does not affect the character or setting of the listed building on/adjoining the site.

- 3 The external materials and finishes shall be as indicated on the approved plans and/or submitted application form.

Reason

To ensure that the development does not prejudice the appearance of the locality.

TESSA LAMBERT

DEVELOPMENT MANAGER

DEVELOPMENT MANAGEMENT ENFORCEMENT PLAN		Agenda No: 6
Report prepared by: Darren Tuff - Planning Enforcement Team Leader		
Background Papers: <ul style="list-style-type: none"> National Planning Policy Framework (NPPF) 		Public Report: Yes
Options: To approve or not approve the Development Management Enforcement Plan as a guidance document for customers and officers.		Key Decision: No
Executive Summary: The Government's National Planning Policy Framework (NPPF) recommends that all planning authorities produce a Local Enforcement Plan to assist with managing enforcement in a way that is appropriate for their area. The draft Development Management Enforcement Plan (the Plan) aims to provide a structured approach to planning enforcement investigations in the geographical area administered by Braintree District Council. The Plan has been prepared with both customers and officers in mind and it is intended to act as a best practice guide as well as an informative guide to customers who wish to use the service. The key points which the Plan sets out are: <ul style="list-style-type: none"> How to report breaches of planning control How the Council will investigate reported breaches What constitutes a breach of planning control What does not constitute a breach of planning control How the Council prioritises enforcement cases The legal powers which are at the Council's disposal and how they can be used How the Council reaches decisions on whether or not to take enforcement action The Plan was considered by the Council's Corporate Directors on 16 January 2018 and approved as a formal guidance document. A draft version of the document was open for comment and consultation with Councillors and Town and Parish Councils over February/March 2018. This report provides a summary of the responses to the consultation as an Appendix at the end of the report. If approved, the document will be published on the Council's website along with additional information around planning legislation and working practices.		

Decision:
To approve the Development Management Enforcement Plan as a guidance document.
Purpose of Decision:
To provide validation to the document.

Corporate Implications	
Financial:	None at this stage
Legal:	To comply with Government legislation and guidance on planning enforcement investigations.
Equalities/Diversity	Council policies should take account of equalities and diversity.
Safeguarding	None
Customer Impact:	The Plan explains the Council's approach to planning enforcement as well as managing the expectations for customers wishing to use the service.
Environment and Climate Change:	The document identifies the importance of prioritising investigations based on their impact within the amenity.
Consultation/Community Engagement:	A draft version of the document was made available for comment to Councillors and Parish & Town Councils.
Risks:	N/A.
Officer Contact:	Darren Tuff
Designation:	Planning Enforcement Team Leader
Ext. No.	2528
E-mail:	dartu@braintree.gov.uk

1. Background and Introduction

- 1.1** The Council's Planning Enforcement Team has prepared a draft Development Management Enforcement Plan which is intended to provide a structured approach to the investigation of alleged planning breaches across the District. The Plan has been prepared following the guidance of the National Planning Policy Framework (NPPF) in 2012 and will assist users of the service as well as officers and managers.
- 1.2** Over the past 18 months or so the Planning Enforcement Team have been dealing with planning enforcement in a more efficient and robust way. Once the provided information is assessed it can often be established that the breach is only minor or not a breach at all. These cases are closed down as there would be no legal basis to launch an investigation. However, where harmful unauthorised activity is found which is not rectified voluntarily legal notices are served as quickly as possible rather than enter into protracted negotiations.

2. Context

- 2.1** The aim of the planning enforcement function is to discourage unauthorised development and, where planning breaches are evidenced, to take proportionate action to remedy any harm to amenity or the built or natural environment. The aims within the document mirror current Government policy for planning enforcement which is set out in the NPPF.
- 2.2** The NPPF states, in part, that: *‘Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so’.*
- 2.3** The Plan explains that the purpose of the Council's Planning Enforcement service is to investigate alleged breaches of planning control and, where justified, consider appropriate remedial action. It also details the reason why not all requests for an investigation result in action, even where there is a breach of planning control.
- 2.4** The document also includes a useful flow chart in the appendices where a streamlined process can be easily followed.

3. Planning Enforcement Principles and Objectives

- 3.1** The policies and legislative framework contained within the Plan are intended to provide an outline for decision making, assist with the targeting of resources, provide consistency and help all interested sections of the community to have a greater understanding of Council decisions on planning enforcement matters.
- 3.2** The Plan is based on the following key principles:
- Enforcement action is a discretionary power and will only be taken where it is expedient to remedy harm and when it is in the public interest.
 - Enquiries will be prioritised for investigation, dependent on their gravity, impact upon local amenity and the material planning considerations involved.
 - Enquirers will be informed during key stages of an investigation and of eventual outcomes.
 - Enforcement action will be proportionate to the breach and will generally be held in abeyance whilst valid appeals or planning applications are determined.
 - All legitimate enquiries regarding alleged breaches of planning control will be assessed and an investigation launched where it is appropriate.

In seeking to follow these principles some key objectives have been established and these include; upholding planning law and local planning policy to ensure that the credibility of the planning system is not undermined; ensuring that the

undesirable effects of unauthorised development are remedied; seeking an effective resolution to harmful breaches of planning control and striking a measured and appropriate balance between protecting amenity and other interests of acknowledged importance, whilst permitting acceptable development to take place.

The Plan also seeks to introduce some fundamental changes to the way the enforcement team has previously operated. These include moving away from the historical practice of residents making a 'complaint'. The Council has a complaints procedure which is a very different process and this terminology for an enforcement investigation has caused confusion. Instead, the term 'enquiry' will now feature when a question is raised about planning matters. Following receipt of an enquiry, an initial desk based assessment will take place to ascertain the validity of the information supplied and establish whether an investigation is necessary. A revised enquiry form can be found on the Council's website where it can easily be completed and submitted online. Such enquiries can also be made by letter, or by posting a form, but the web-based access is the route people will be encouraged to use. The priorities have been changed, moving away from 'who' makes the enquiry to the 'significance of the harm' being caused by the breach.

Overall, the enforcement team aims to increase the pace in its decision making process and provide an update to all interested parties once a decision is reached. Although it is rare that all interested parties agree with the outcome of an investigation it is preferable to manage their expectations as soon as possible.

4. Best Practice and Practical Guidance

- 4.1** For the first time, in order to be open and fair to all parties using the planning enforcement service, the Plan includes a section on how investigations of alleged planning breaches are conducted. This doubles up as a guidance document to officers operating both outside and within the team.
- 4.2** In addition and with fairness in mind, there is also a section aimed at persons who are the subject of an enforcement investigation. It advises them what they can expect, the legal rights held by enforcement officers and where independent advice can be sought.

5. Consultation

- 5.1** There were four written responses to the draft Plan which were largely positive and supportive in tone; they are shown in full in Appendix 1. One further comment was received after the deadline, but it was largely specific to experiences around previous cases. For completeness it has been included. Where appropriate the Plan has been amended to reflect the comments made.

6. Conclusion

In preparing the Development Management Enforcement Plan the intention has been to provide an advisory and informative document drawing on past experiences, case law, planning practice guidance and the legal framework. Particular attention has been paid to streamlining processes from an early stage

and introducing some changes, including a revised priority procedure. It is recognised that if the Plan is to be of value and relevance over the next few years then it will need to be revisited and updated to include legislative changes and new experiences. Whilst relevant changes can be made as and when necessary, a full review should take place after a five year period.

7. Recommendation

To approve the Development Management Enforcement Plan as a planning guidance document for customers and officers.

Appendix 1 Consultation Responses to Development Management Enforcement Plan

Respondent	Comment	Action/response
1. Cllr G Spray	Cllr Spray considers it to be excellent document. She notes that it is a complex subject which has been clearly set out and explained and thanked the team for pulling it together.	Comment recorded with thanks.
2. Cllr I Parker	Cllr Parker identified some minor grammatical and presentation errors within the document and asked for further information to be included on the GPDO. She asked that the reference to Human Rights be left out unless it was necessary and also if the document could be reduced in size. The response also included reference to a particular case and the length of time it was taking to resolve. She liked the flowchart in the appendices.	The errors were corrected as stated. GPDO, known as permitted development, is covered in section 4 of the document. It also features in greater detail on the website where this document will be displayed. As a Local Authority we are required to act lawfully, Human Rights Legislation impacts on our entitlement to investigate alleged planning breaches unless we have sufficient grounds to suspect a breach is occurring, therefore it is necessary to include it.
3. Rivenhall Parish Council	The Parish Clerk commented on the lack of Planning Enforcement Officers to satisfactorily undertake the enforcement action required within the district.	The Planning Enforcement Team have recorded a considerable increase in the number of investigations over recent years. It is a busy team with a heavy workload, with officers typically handling caseloads of 75 or more. A recent

		service review has resulted in the team gaining a small amount of admin support.
4. Helions Bumstead Parish Council	The Parish Clerk thought that the document was confusing because it is aimed at officers and complainants and written accordingly. It was felt that the flow chart should be at the front of the document.	These points have been noted. It is intended that the document acts as guidance to officers, staff, enquirers and those who are the subject of investigations and action. It has been drafted accordingly.
5. Rayne Parish Council	A response was received some weeks after the deadline. The response said that the document explains the working practice in detail, but their experience within Rayne is that the enforcement team does not follow through on the procedures being defined. Largely, the response mentions individual experiences and that a number of residents have flouted the rules without consequence. The response includes that the intent of the plan is good, but it should be re-drafted to reflect the needs of residents and demonstrate how the processes being proposed can be made practicable, workable and effective.	These points have been noted. The document has been produced to provide guidance to everyone involved with the service. It is there to support an existing and effective team and streamline some out of date processes. Each investigation is judged on its own merits and, whilst it is regrettable, it is often the situation that an involved party is left unhappy with the outcome. The rationale around decision making is recorded and can be shared with interested parties upon request.

Development Management Enforcement Plan

CONTENTS

- 1.0 Introduction
- 2.0 Approach – principles and objectives
- 3.0 Resources
- 4.0 Breaches of planning control
- 5.0 How to report a potential breach of planning control
- 6.0 How the team prioritise investigations into alleged breaches of planning control
- 7.0 How the team investigate alleged breaches of planning control
- 8.0 Monitoring conditions and agreements
- 9.0 Information, reporting and publicity
- 10.0 What happens if you are subject of an enforcement case?
- 11.0 Appendix 1: Schedule of principal enforcement tools and powers
- 12.0 Appendix 2 : Simplified Planning Enforcement Process Chart

1.0 INTRODUCTION

Legislative and National Policy Context

1.1 The aim of the planning enforcement function is to discourage unauthorised development and where planning breaches are evidenced, to take proportionate action to remedy any harm to amenity, or the built or natural environment. These aims mirror current Government policy for planning enforcement, which is set out in the National Planning Policy Framework and, in part, states:

Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.

1.2 The planning enforcement function works within a legislative framework. However, there is also policy, guidance and case law which, through their collective interpretation, further shape how the team operate our enforcement activities and make decisions. These include, but are not exclusive of the following:

- Legislative requirements (e.g. Town and Country Planning Act 1990; Planning (Listed Buildings and Conservation Areas) Act 1990; Planning and Compensation Act 1991; Police and Criminal Evidence Act 1984; Human Rights Act 1998; Regulation of Investigative Powers Act 2000 and Criminal Proceedings and Investigations Act 1996).
- National Planning Policy Framework and other government guidance material in any planning (enforcement) decisions.
- The Braintree District Development Plan
- The Government's 'Enforcement Concordat'

1.3 The purpose of the Council's Planning Enforcement service is to investigate alleged breaches of planning control and consider appropriate remedial action to safeguard and protect the stakeholders and environment of Braintree District in support of the extant planning policies of the Council.

This document makes clear what those undertaking unauthorised development and those objecting to it should expect from us and explains how the team will prioritise and undertake investigations. In summary, the Council will place a structured priority on compliance with planning law and the enforcement team will remain impartial throughout any investigation. However, the Council also recognise that many breaches of planning control, although unlawful, do not constitute a criminal offence and so discretion will be exercised where appropriate. The Council will take enforcement action only if it is considered to be reasonable, necessary and expedient to do so. Each breach will be considered individually based on its own circumstances and context.

1.4 In considering any enforcement action, the decisive issue will be whether the breach of planning control would unacceptably affect public amenity, or be contrary to the policies of the Local Plan and National Planning Policy therefore meriting such action in the public interest.

1.5 An investigation cannot be launched unless the team have reasonable grounds to suspect that a breach of planning control has taken, or is taking, place.

1.6 Enforcement action should not be taken simply because there has been a breach of planning control. In accordance with Government guidance, the team will not take action in respect of a 'trivial' or 'technical' breach of planning control which causes no or little harm. Where there is harm the team will take action to remedy that harm through negotiation and when necessary, formal action. Where formal action is taken the team will justify and record the reasons for doing so. Likewise, where the team do not intend to take action we will record our rationale as to why it is not considered justified and expedient.

1.7 This document is available on the Council's web site at www.braintree.gov.uk/planningenforcement

It can be obtained by contacting the Planning Enforcement Team Leader on 01376 552525, extension 2528 or you can e-mail planning.enforcement@braintree.gov.uk to request a copy. Alternatively, please write to Planning Enforcement, Braintree District Council, Bocking End, Braintree, Essex CM7 9HB

The Governments Enforcement Concordant can be viewed by following this link: <http://webarchive.nationalarchives.gov.uk/+/http://www.berr.gov.uk/files/file10150.pdf>

2.0 APPROACH – PRINCIPLES AND OBJECTIVES

Principles

2.1 This Plan is based on the following key principles for enforcement:

- All legitimate enquiries regarding alleged breaches of planning control will be assessed and an investigation launched where appropriate;
- Enquiries will be prioritised for investigation, dependent on their gravity, impact upon local amenity and the material planning considerations involved;
- Enquirers' identities will be kept confidential where practical, unless agreements have been obtained allowing personal information to be disclosed or subsequent court action warrants their evidence being made public or the Police request the identity in connection with a criminal investigation e.g. offences under the Harassment Act 1997.
- Enquirers will be informed during key stages of an investigation and of eventual outcomes. There is not an appeal process for enquirers who do not agree with the decision made.
- Enforcement action is discretionary and will only be taken where it is expedient to remedy harm and when it is in the public interest; and
- Enforcement action will be proportionate to the breach and will generally be held in abeyance whilst valid planning applications or appeals are determined.

Objectives

2.2 The Council establishes the following objectives for implementing this Plan:

- To uphold planning law and local planning policy and to ensure that the credibility of the planning system is not undermined;
- To ensure that the undesirable effects of unauthorised development are remedied;
- To ensure the timely and proportionate investigation of justified enquiries;
- To seek an effective resolution to harmful breaches of planning control;
- To strike a measured and appropriate balance between protecting amenity and other interests of acknowledged importance and enabling acceptable development to take place, in accordance with the principles of the National Planning Policy Framework; and
- To carry out all enforcement duties in accordance with the principles of the Enforcement Concordat (see 1.7), particularly with respect to openness, helpfulness and proportionality.

3.0 RESOURCES

3.1 The Planning Enforcement team forms part of the Council's Development Management Team. The Planning Enforcement team currently investigates between 400-450 cases annually across the district. This number is likely to increase as the drive to meet the housing need set by the Government continues. The Council employs 1.87 full time equivalent Planning Enforcement Officers who report to a Planning Enforcement Team Leader. The Team Leader reports directly to the Development Manager.

3.2 Due to the complex nature of enforcement and the potential legal implications it may have, cases can often take many months to fully investigate and resolve. It is therefore important that there is a system for prioritising investigations. The team aims to have no more than 150 cases under investigation at any one time. This means that, on occasions, the investigation of some alleged planning breaches may be need to be programmed to reflect the peaks and troughs in the resources available within the team. This decision will be made in accordance with the priority system set out in Section 6.0 below.

3.3 There is no dedicated 'out of hours service' to investigate planning breaches that are alleged to be taking place and require investigation outside of normal working hours. Notwithstanding the above, officers will make best efforts to be flexible, according to the requirements of an investigation. The Planning Enforcement team will also seek support from other Council teams to assist where appropriate.

3.5 The Council is committed to ensuring that its officers are able to carry out their work safely and without fear and intimidation. Where appropriate, the Council will use legal action and any other means available to prevent or respond to abuse, harassment or assault on its officers. Officers reserve the right to conclude any communication where persons are discourteous or use threatening, abusive or insulting words or language.

4.0 BREACHES OF PLANNING CONTROL

4.1 The Planning Enforcement team will investigate and where justified, necessary and expedient, enforce against any breaches of planning legislation.

4.2 However, before discussing what a breach of planning legislation is, it is helpful to understand **what is not a breach**. The following are examples of activities which are not breaches:

- Operating a business from home where the residential use remains the

primary use and there is not significant and adverse impact upon the amenity of neighbouring residents. For example:

1. A tradesperson who parks their work vehicle on their driveway at home or other business vehicles on the public highway
2. The use of a room in a house by an occupier to carry out a business with no employees or extensive deliveries to the property in relation to that business.
3. Certain cases will be investigated to assess, if as a matter of fact and degree, the activity appears to have changed the character or use of the dwelling to a mixed use.

- Parking of a caravan within the curtilage of a residential property, provided it is not used as a completely separate residence.
- Obstruction of a highway or public right of way, or parking of commercial vehicles on the highway in residential areas or on grass verges. Such activity may however breach Highways Legislation for which Essex County Highways are responsible.
- Boundary disputes (these are a civil matter).
- Adverts which have deemed consent in accordance with the Town and Country Planning (Control of Advertisement) Regulations 2007 (as amended).
- Breaches of restrictions imposed by deeds and covenants (these are a civil matter).
- Development, such as small house extensions, which are 'permitted development', as defined in the Town and Country Planning (General Permitted Development) Order 2015 (GPDO).
- Hobbies or activities within the curtilage of a dwelling are likely to be incidental to the enjoyment of the dwelling and therefore would not require planning permission. For example, a householder repairing the family car at their property would not require planning permission, but a householder advertising and running a car repair business from home would usually require planning permission.
- Clearing land of undergrowth, bushes and trees provided they are not protected trees and are not within a conservation area or protected by a planning condition.
- Outdoor lighting or CCTV fixed to existing buildings (other than a listed building)

- Works conducted by external services to the power, water, gas and communication networks.

Breaches of Planning Legislation

4.3 Building Works, Change of Use or failure to comply with Planning Conditions.

Local Planning Authorities are primarily concerned with ‘development’, which is defined in the Town & Country Planning Act as follows:

Development, means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

For the purposes of this Act “building operations” includes—

(a)demolition of buildings;

(b)rebuilding;

(c)structural alterations of or additions to buildings; and

(d)other operations normally undertaken by a person carrying on business as a builder.

‘Development’ is **not**:

- works which affect only the interior of the building;
- works which do not materially affect the external appearance of the building.

If there is no ‘development’ there is no breach of planning control and no further action is available to the Local Planning Authority under its planning powers. *(Please note the section below which relates specifically to works affecting listed buildings)*

4.4 Development Requiring Planning Permission

There are two main types:

- Deemed permission permitted under the GPDO, known as “Permitted Development”. Some permissions under the GPDO are subject to limitations and conditions. Provided the development falls within the terms of the GPDO, planning permission is not required from the Local Planning Authority and there is no further action that the enforcement team can take.

- Express permission (full or outline) granted following the submission of a planning application to the Local Planning Authority. Conditions can be expressly imposed by the Local Planning Authority or Planning Inspectorate on Appeal.

4.5 In summary, a breach of planning control may result from:

- Carrying out work either without planning permission or in a way that is different to that which has been granted planning permission.
- Carrying out work without compliance with planning conditions attached to a planning permission, or not in accordance with the limitations and conditions set out in the GPDO.
- Changing the use of land or property without planning permission or without compliance with the limitations and conditions set out in the GPDO or Town and Country Planning (Use Classes) Order 2015

Carrying out Unauthorised Development is not a criminal offence.

4.6 Listed Buildings

Works to a listed building that are not considered like for like repairs will require listed building consent. Where works have been carried out without consent a criminal offence may have been committed. Subject to the extent and nature of the works, consideration will be given to whether to commence criminal proceedings and/or serve a Listed Building Enforcement Notice. Professional advice should be sought prior to carrying out any works to a listed building.

4.7 Advertisements

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 allows the display of some classes of advertisements and signs without the need to get consent from the Local Planning Authority. Where an advertisement is being displayed without the appropriate consents it constitutes a criminal offence. Where the advertisement causes serious harm to 'amenity' or 'public safety' the team will ask for it to be removed within a specified period. If the advertisement continues to be displayed after this time formal prosecution proceedings will be considered.

4.8 Works to trees subject to Tree Preservation Orders or within a Conservation Area

The Council has the statutory power to make Tree Preservation Orders (TPO) to protect individual or groups of trees. Similar protection applies to trees within Conservation Areas. It is a criminal offence to cut down, top, lop, uproot, wilfully destroy or damage a protected tree in a manner likely to destroy it, without the

Council's consent. If work is undertaken without consent the team will assess the nature of the works and whether it is in the public interest to prosecute. Advice should be sought from the Council's Landscapes Team as to whether a tree is protected or within a conservation area.

4.9 Unsightly land or buildings

The condition of certain buildings or land can cause harm to the visual amenity of an area and the team sometimes receive enquiries relating to such matters. Where the condition of land or buildings is causing significant harm to public amenity, consideration will be given to serving a notice under the Section 215 of the Town and Country Planning 1990. Such a notice it will specify measures to improve the appearance of the land or buildings. If those measures are not taken within a specified time an offence has been committed.

5.0 HOW TO REPORT A POTENTIAL BREACH OF PLANNING CONTROL

5.1 Anyone who reasonably believes that a breach of planning control has occurred can raise an enquiry with the Planning Enforcement Team.

5.2 Reports of a potential breach can be made by the following means:

- By completing the online enquiry form on the Council's website: www.braintree.gov.uk/planningenforcement
- By writing to the Planning Enforcement Team Causeway House Braintree Essex CM7 9HB
- By emailing a completed enquiry form to planning.enforcement@braintree.gov.uk

5.3 The following information will be required:

- The full address or location of the site where the breach is taking place.
- The nature of the alleged breach and the harm being caused.
- Times, dates and any relevant information.
- The name (if known) and status (owner/tenant/occupier/contractor/worker) of the person(s) involved.
- The date when activities first began and if they are on-going.

- If the enquiry relates to a change of use, the previous use of the
- Whether you have any legal interest in the land or property
- How the alleged breach is affecting you
- Your full name, postal address and contact details, including telephone number **must** be included with your enquiry and where possible an email address. Where an email address is provided the team will generally use this to update you at key stages.

5.4 Malicious complaints and anonymous allegations:

- To avoid the potential misuse of powers, where it is considered that an enquiry is not motivated by planning concerns it will not be investigated.
- Anonymous enquiries are not normally investigated, however if the matter raised constitutes a criminal offence, such as works to protected trees or listed buildings the Team Leader may direct that an investigation is conducted. The team must have reasonable grounds to suspect that an offence is being, or has been, committed in order to pursue a line of enquiry.
- Repeated enquiries which have previously been investigated and resolved will not be entertained. Unless, there has been a significant change to the circumstances since the finalisation of the previous investigation.

5.5 The Council will seek to maintain the confidentiality of persons reporting breaches at all times. The Council will not usually reveal the identity of the enquirer to the perpetrator of an alleged breach. The Council may be asked to reveal the identity under the Freedom of Information Act 2000, the Environmental Information Regulations 2004 or legitimately by the Police. However, any decision made to reveal this information under the above legislation would need to show that the public interest in disclosure outweighed the risk in withholding the information. If formal legal action is taken, the identity of a person reporting the breach may be required to be disclosed during court proceedings. It should be noted that in the majority of cases the land owner will be able to figure out who is responsible for making the enquiry, this will not be routinely confirmed.

5.6 The substance and dates pertaining to the enquiry are not confidential. In some cases it may be necessary to rely on evidence from enquirers in order to take action and it will need to be considered whether you are willing to actively assist the Council by collecting evidence and potentially acting as a witness at an appeal or in Court. The investigating officer will explain what may be required in these cases. Once a breach of control is suspected, you may be invited to make a note of your observations and keep a log of any relevant activities.

5.7 If you also raise your concerns with your local District Councillor or your Town or Parish Council please advise them of any contact you may have had with the Planning Enforcement team, including the Council's reference number.

5.8 The Town and Parish Councils are not the responsible authority for taking planning enforcement action, the responsibility lies with the Local Planning Authority. Your local District Councillor or Town or Parish Councillor may be willing to pass on your concerns to the Enforcement Team, but it is by no means certain that they will do so unless you specifically agree this with them.

5.9 If an enquiry is received from a District Councillor or Town or Parish Council on your behalf the team will respond to them. If they provide us with your contact details the team will update you. Ultimately, it will be your responsibility to ensure that your concerns are made known to the Council's Planning Enforcement team.

5.10 The priority the team give to an investigation does not change because the team receive it from a District Councillor or a Town/Parish Council (it is the scale of harm which determines the priority (*see below*)).

6.0 HOW THE TEAM PRIORITISE INVESTIGATIONS INTO ALLEGED BREACHES OF PLANNING CONTROL

6.1 The Council receive around 400-450 enquiries of alleged breaches of planning control per calendar year. Cases reported may or may not require a site inspection and may be referred to other departments or agencies as appropriate. Due to the often lengthy and complex nature of planning investigations and staff resources available, priority will be given to those cases where the greatest harm is being caused.

6.2 When enquiries are first received each case will be assigned a priority dependent upon the nature of the alleged breach. This initial assessment will be dependent upon the information provided at the time and the harm that is identified, such as possible harm to the environment or public and/or planning significance. It is therefore very important that you tell us what impact the development is having on you or the environment.

6.3 All cases will be kept under review which could result in the priority assigned to the investigation changing, for example after an initial site visit has been carried out and the officer has had the opportunity of assessing the alleged breach.

6.4 Allegations relating to potential breaches of planning control will be investigated and will be categorised as follows:

High Priority Alleged breaches causing irreparable harm to the natural or built environment, or public safety. For example:

- Unauthorised demolition, partial demolition or significant alteration of a

building, which it is essential to retain (e.g. a listed building or building within a Conservation Area) or any other development that has the potential to cause irreversible demonstrable harm;

- Breaches of conditions attached to a Listed Building Consent;
- Unauthorised works to protected trees covered by a Tree Preservation Order or in a Conservation Area.

Medium Priority Alleged breaches which cause clear and continuous harm or danger to the public, the built or natural environment or where there is a risk of material harm to the environment and/or harm to residential amenity. For example:

- Unauthorised development or breaches of a condition which results in serious demonstrable harm to the amenity of an area;
- Where works, or uses, have the potential to cause material long term damage to the environment.

Low Priority Breaches of planning control causing limited, or no material harm to the environment, or the amenity of residents. For example:

- Unauthorised uses or development, which would be likely to receive planning permission;
- The display of unauthorised advertisements where there are no highway safety implications; or
- Cases involving a technical breach of planning control, or where it is likely that development falls under 'permitted development'.

7.0 HOW THE TEAM INVESTIGATE ALLEGED BREACHES OF PLANNING CONTROL

7.1 Where an officer has a conflict of interest regarding any particular enquiry, the matter will be assigned to another officer to investigate.

7.2 Where an enquiry is made using the online facility you will receive an immediate electronic acknowledgment. Where a letter is received, it will be acknowledged as soon as practicable, the inclusion of a telephone number or email address will greatly assist.

7.3 When an enquiry is received, the team will endeavour to commence the investigation or seek to make contact with the person responsible for the activities within the following timescales:

- High Priority cases – usually within 1 working day,
- Medium Priority cases – usually within 5 working days.
- Low Priority cases – usually within 20 working days.

7.4 The team will investigate by looking at records and visiting the site. The team may also need to seek further information from the enquirer or the person carrying

out the unauthorised activity.

7.5 Firstly, the team have to establish whether a breach of planning control has occurred as defined in the legislation and detailed in Paragraph 4.3 above. If there is no 'development' or no 'condition' being breached then there is no breach of planning control and no further action can be taken under the planning legislation, the team will therefore close the file. Enquirers will be updated accordingly.

7.6 In order to establish that there has been a breach of planning control, the following are things which need to be considered:

- Is the development 'permitted development'.
- Is the development time-barred from enforcement (see 7.22)
- Has permission already been given (most planning permissions can be taken up at any time within 3 years from the date permission was granted and once partially put into action, there is no time limit on final completion).
- Where planning permission has not been granted, are the activities generally acceptable in planning terms
- What is the most appropriate action to take where the activities or development are undesirable but only a minor/technical breach in planning terms.

7.7 A similar process will be followed in respect of alleged breaches of planning control relating to advertisements, works to listed buildings and works to protected trees.

7.8 If there is a breach of planning control, the planning service will consider what action to take. In deciding whether to take enforcement action, the Council will have regard to the Local Plan and to any other material considerations, including national policies as expressed through the National Planning Policy Framework and associated guidance. The scale of impact of the breach will also be a factor in determining whether enforcement action is expedient.

Planning 'Expediency' and 'Harm'

7.9 Even when it is technically possible to take enforcement action, the Council is required first to decide whether such formal action would be 'expedient'. Enforcement action is a discretionary power and the relevant planning circumstances of each case must be considered in the first instance.

7.10 The 'expediency' test is therefore whether the unauthorised activities are causing harm having regard to the policies and other material planning considerations. In considering whether it is expedient to take enforcement action the decisive issue will be whether the breach of planning control unacceptably affects public amenity, the natural environment, existing land uses and buildings which merit protection in the public interest or the natural environment. Any action taken will also

be proportionate to the breach of planning control to which it relates. This approach to enforcement reflects that set out in the National Planning Policy Framework and associated guidance.

7.11 Formal action will only be taken where there is material harm in planning terms. Harm takes many different forms. It includes the impact on visual or residential amenity, on highway safety, on the amenity of the public in general, the occupiers and users of surrounding land and buildings or the environment in general. Harm may occur through damage to the area's historic buildings and environment, for example, unauthorised work to listed buildings, or if the conditions attached to the consent are not complied with. Harm can also occur where the development undermines the policies of our Local Plan, or could set a precedent which, if repeated, would undermine the policies of the Local Plan.

7.12 The planning system operates in the public interest, rather than the private interest of individuals, so there are certain issues that the team cannot take into account. For example:

- loss of value to property;
- competition with other businesses;
- rights to a view;
- trespass; or
- breaches of covenants.

7.13 In deciding whether or not to pursue enforcement action the planning service will also make an assessment of the evidence available to support such action and any claim that the development is immune from enforcement.

7.14 The main issue will be whether, if left un-addressed, the breach of planning control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest. This may involve Human Rights considerations on the part of the landowner, resident and/or operator. Any action taken will be confined to what is necessary and proportionate in the circumstances of the case.

7.15 Article 8 and Article 1 of the first protocol to the Convention on Human Rights state that a person is entitled to the right to respect for private and family life, and the peaceful enjoyment of his/her property. However, these rights are qualified in that they must be set against the general interest and the protection of the rights and freedom of others. In accordance with the Human Rights Act 1998, if there is any question of enforcement action interfering with these rights the Council will consider in each case whether the wider impact of the breach overrides the owner's right to the peaceful enjoyment of their property.

7.16 Circumstances may also arise where there are conflicting priorities between the amenity and environmental aspects of a breach of planning control. In reaching a decision on expediency the Council will balance the harm being caused against the likely success of any formal action, the availability of resources, and other cases that might be causing a greater level of harm, but whose progress might be delayed as a result. Due regard will be given to the conflicting priorities when making decisions on whether or not it is expedient to take enforcement action.

7.17 In summary, the Council will only take enforcement action when it is considered expedient, justified and necessary to do so, even if there is a clear breach of planning control:

- Enforcement action **will not** be taken if the breach of planning control does not unacceptably affect public amenity, materially compromise planning policy or the existing use of land and buildings meriting protection is not in the public interest.
- Enforcement action **will not** be instigated solely to overcome a trivial or technical breach of planning control, which causes no significant harm to amenity in the locality of the site, or materially conflict with planning policy.

In these circumstances the team will close the case file and notify the relevant parties involved in the investigation. The team will also, without prejudice to the outcome, advise the owner/operator that they can make an application to seek regularisation and gain authorisation. The person making the enquiry has no right of appeal against a decision which has been reached, however comments and objections will be recorded and held on file.

Staged Approach to Enforcement

7.18 The team will give those responsible for a breach of planning control the opportunity to undertake required actions, or attempt to reach a negotiated solution that suits all parties. Where it proves necessary to resolve a significant breach of planning control, and in accordance with the Council's scheme of delegation, officers will consider whether it is appropriate to issue a statutory notice, prosecute and/or carry out works in default. The choice of action in each case will be:

- No further action - no breach has occurred.
- No further action – the breach is immune from any planning enforcement action, the work or use is "lawful" (see Paragraphs 7.22 - 7.27 below).
- No further action - not expedient to take action. It is a trivial or technical breach or there is no significant harm to amenity or the environment.
- Regularisation - cessation of use/works, retrospective application, discharge of conditions.
- Advice – Where a breach is of a minor or trivial nature advice will be given advising the person responsible of this fact.

- Warning – A formal written warning may be issued highlighting the breach and advising of what action is required to remedy the situation.
- Formal action - enforcement or other formal notice, simple caution, prosecution, injunction, works in default.

7.19 Where a breach of planning control has been identified, unless circumstances require immediate action, a staged and considered approach to formal enforcement action will always be adopted:

Step 1

- Give advice e.g. informal email, letter or verbal communication.
- Caution the offender where it relates to a criminal investigation
- Seek to negotiate, allowing an opportunity for cessation of works/use or reinstatement of land.
- Encourage a retrospective planning application or to seek pre-application advice to ascertain if an application is likely to be given support at officer level.

Step 2

- Formal letters, written warnings.
- Recorded interview under the codes of the Police & Criminal Evidence Act
- Issue a formal notice to obtain more information.
- Request a regularising application

Step 3

- Where a breach of planning control has been identified and no action has been taken to address the breach it will be necessary to consider formal action in the form of an Enforcement Notice and Stop, or Temporary Stop Notice. Where formal action is taken then every effort will be made to explain to the recipients what is required of them, the consequences of non-compliance and the available rights of appeal.
- Where an enforcement notice has not been complied with this will include consideration of prosecution proceedings or direct action.
- Submit a case file for prosecution through the Courts.

In High Priority cases, Steps 1 and 2 may be omitted.

Retrospective Planning Applications

7.20 An investigation will first establish whether a planning permission or consent is required and whether it is likely that a permission or consent would be granted. Planning legislation allows for retrospective applications to be made and unauthorised developments can be regularised through a retrospective application. Where necessary the Local Planning Authority can impose conditions to make the development acceptable.

7.21 Where it is assessed that planning permission may be granted for the development, the person responsible could be asked to submit a retrospective planning application.

- Where a breach has taken place and a retrospective planning application submitted it will usually be treated in the same manner as any other planning application.
- For matters requiring immediate attention a planning application should not hold up any urgent action.
- The Council can decline to determine an application where an enforcement notice has been served, as long as the notice is served before the application is received.

Immunity and Lawful Development

7.22 There may also be cases where it will be too late for the Planning Authority to take any further action. A breach of planning control becomes immune from enforcement action if no action has been taken within certain time limits set out in the Town and Country Planning Act, namely:

- Four years from the substantial completion of operational development and from the change of use of any building to a single dwelling-house, including use as flats (subject to the use as a dwelling house not being considered to constitute concealment)
- Ten years for all other breaches (i.e. change of use or breach of a planning condition).

In essence if operational development i.e. building works took place more than 4 years ago or a change of use of land or buildings took place more than 10 years ago, then such development would become 'lawful' and immune from any planning enforcement. The planning merits do not fall to be considered in such cases.

7.23 The reasons for the time limits are that if a building has been in situ for more than 4 years without giving cause for concern, or a use continued for 10 years, then it is unlikely that such development has caused any harm.

7.24 In cases where the development may be immune from planning enforcement action the team may suggest, but cannot require, an application for a Lawful Development Certificate for an existing use, operation or activity, including those in breach of a planning condition. With such an application, the onus is on the applicant to demonstrate through the submission of evidence such as sworn statements, photographs, receipts etc. that the development is lawful. The test is 'on the balance of probability'. The planning merits of the case do not fall to be considered.

Formal Enforcement Action

7.25 Whilst the team will endeavour to overcome any harm caused by unauthorised development, by negotiation wherever possible, the enforcement system rapidly loses credibility if unacceptable developments are perpetuated by prolonged or protracted enforcement discussions. A time limit for concluding negotiations will therefore normally be set by the investigating officer, commensurate with the priority accorded to the case.

7.26 Where an informal approach fails, negotiations will not be allowed to hamper or delay whatever formal enforcement action may be required to make the development acceptable on planning grounds or to compel it to stop (bearing in mind the statutory time limits for taking enforcement action). The team will not allow prolonged negotiation to delay essential enforcement action and will use the powers available where it is expedient to do so.

7.27 In considering formal enforcement action, the team will have regard to the particular circumstances of each case and the degree of harm or potential harm resulting from the breach of planning control and will use enforcement powers commensurate with the seriousness of the breach.

7.28 Having decided to pursue formal enforcement action, the following powers are available, although not all of these will be appropriate in every case:

- To serve statutory notices (including: Planning Contravention Notices; Enforcement Notices; Listed Building Enforcement Notices; Stop Notices; Temporary Stop Notices; Breach of Condition Notices; Untidy Sites Notices; Hedgerow Retention/Replacement Notices, High Hedges Remedial Notices);
- To issue Simple Cautions;
- To prosecute (including prosecution for: non-compliance with a statutory notice; unauthorised display of an advertisement; unauthorised works to a listed building; non-compliance with a requirement to replace a protected tree or for unauthorised work to a protected tree);
- To take direct action; or
- To apply for an Injunction.

Further details of the available enforcement remedies are shown in Appendix 1.

7.29. The Council has delegated authority for the service of Enforcement Notices to the Development Manager. Accordingly, enforcement action does not require the endorsement of the Planning Committee, however, on occasions this may be sought.

Appeals against Enforcement Notices

7.30 Appeals may be lodged against enforcement notices to the Secretary of

State. When appeals are lodged, each case will be reassessed having regard to the grounds of appeal and any subsequent change in circumstances.

7.31 In defending enforcement action on appeal and in the courts, it will be necessary to show that the relevant procedures have been followed and that national policy on planning and enforcement has been taken into account. It will however, be expected that on the planning merits that led to the enforcement action, cases will be defended by the Council at appeal.

8.0 MONITORING CONDITIONS AND AGREEMENTS

Planning Conditions

8.1 Non-compliance with conditions will be referred to the Planning Enforcement team if developers or owners are not responding to approaches made by the Planning Officer, or the breach occurs following the completion of the development and it has been subsequently brought to our attention.

Legal Agreements

8.2 Where planning obligations, known as Section 106 agreements, are not being met, legal action will be taken if negotiations or identified dispute procedures do not result in agreement. The Council's legal team may enforce any non-compliance matters.

9.0 INFORMATION, REPORTING AND PUBLICITY

Keeping enquirers informed

9.1 Planning issues can create frustration and it is in everybody's interest for matters to be resolved as quickly as possible. A timescale target for resolving cases is not appropriate but the team will endeavour to provide updates to enquirers at key stages of the process and once a final determination has been made.

9.2 In many cases due to protracted negotiations, inability to access property or make contact with the owner, there is nothing to report. It may seem in such cases, that no action is being undertaken, but this is not the case.

9.3 At key stages of our investigation the team may update the person(s) who have drawn the matter to our attention. The team will provide an update at the conclusion of our investigation, this will often be the only means of update made.

Recording Alleged Breaches of Planning Control

9.4 The Planning Enforcement team keeps up to date records of all investigations undertaken, to inform and justify any future action, and to compile evidence as necessary e.g. for prosecutions.

9.5 All enquiries and allegations received, subject to the anonymity clarification, will be recorded onto the Council's Enforcement databases. The database will be updated as necessary during the course of an investigation. When a breach has occurred this will be recorded on the relevant database and the information retained.

Repeated Enquiries

9.6 Where an alleged breach has been investigated and concluded, any enquiry relating to the same site, which is not materially different to the previous allegation or does not raise any new issues, will not be investigated. In addition, regular unfounded enquiries from the same source may be considered vexatious and will not be investigated.

Enforcement Register

9.7 Every local planning authority must keep an Enforcement Register. Details of Enforcement Notices, Stop Notices and Breach of Condition Notices issued are entered into the register. Folders are available whereby the past 5 years can be viewed during office hours at the Council Offices Causeway House Braintree Essex CM7 9HB. Older documents can be viewed by appointment only.

9.8. Where an enforcement case has been raised some detail can be viewed on the Council's Website, if a notice has been issued against a property in the past 10 years it will be available to the public to view. The public access facility can be searched using this link www.braintree.gov.uk/publicaccess

Communication with the Media

9.9 Good publicity is important in deterring others from committing serious planning breaches, and reassuring members of the public of the Council's commitment to enforcing against serious breaches in planning regulations. Where appropriate, the team will work with the media to publicise the Planning Enforcement team's work and positive outcomes. This could include details of impending court cases and their outcome.

Comments and Complaints

9.10 The Council is committed to providing an effective and efficient planning enforcement service. However, anyone not satisfied with the service should first discuss any concerns with the Planning Enforcement Team Leader.

9.11 If still dissatisfied, the Council has a formal complaints procedure, details of which can be found on the Council's website at www.braintree.gov.uk

Monitoring and Review

9.13 All outstanding cases will be reviewed at regular intervals with the objective of determining whether it is expedient to continue with the investigation or action. The factors to be taken into account when such decisions are taken will include:

- The extent of harm caused to local amenity or acknowledged planning interests;
- The impact on Local Plan and Policies;
- The existence of other remedial powers; and
- The threat to the integrity of the development control system.

9.14 This Plan and its standards will be reviewed every 5 years.

10.0 WHAT HAPPENS IF YOU ARE THE SUBJECT OF AN ENFORCEMENT CASE

10.1 The team recognise that in many cases a breach of planning control is not intentional and can be the result of a misunderstanding or a person being unaware of the planning requirements. Therefore, if you receive a letter from us or a visit from an enforcement officer, the team encourage you to respond positively and provide the information which the team need to resolve the matter. Don't delay. It is in the interests of all parties if an identified breach can be addressed at an early stage.

10.2 The Local Planning Authority will assess and investigate legitimate enquiries alleging a breach of planning control, even if they prove to be unfounded. If you are contacted about an alleged breach you are entitled to know what the allegation is and to have the opportunity to discuss your position. However, the team do not disclose the identity of the complainant to you. It may be that the matter can be resolved quickly if there is no breach. In other cases a resolution may be negotiated, however this does not mean that you can delay any response or action. The team expect you to respond within the timescales communicated to you and will pursue prosecutions for failure to respond to formal notices.

10.3 The team will not allow long drawn out negotiations to divert the service from taking appropriate action. In many cases, particularly where the works are likely to be acceptable, the team may invite you to submit a retrospective planning application without prejudice to any decision the Council may take. In cases where planning permission has been obtained and the deviation from the approved plans is very minor, you may be entitled to apply to revise the approved plan.

10.4 You should be aware that development which requires, but does not have planning permission, is unauthorised. If you subsequently wish to sell a property which has been subject to a formal notice, you may find the sale is delayed or lost as a result once potential purchasers carry out land searches.

10.5 The Planning Enforcement team will advise the Council's Land Charges team of those sites where formal notices have been served, decisions have been made and where potential enforcement action remains outstanding.

10.6 You should be aware that Planning Enforcement Officers have legal rights of entry to land and property in order to investigate alleged breaches of planning control or compliance with enforcement notices. The enforcement officers will make themselves known to the landowner/developer when they enter a site. It is not always appropriate or possible to give advance warning of a site visit. In some cases a letter or email will be sent to alert you to an alleged breach of planning control as soon as the team are made aware of it and asking you to contact the officer dealing with the case.

10.7 An enforcement officer's visit may be unaccompanied; you do not have to be present. If it is necessary to enter your house, (as opposed to the garden) you are entitled to 24 hours' notice. If you actively prevent an enforcement officer from entering onto your land the team may obtain a warrant to enter the site. Once the team have secured a warrant, any obstruction to access the site will be considered a criminal offence.

10.8 The Council will use the information obtained to make an assessment and decide what further action needs to be taken. Allowing the enforcement officer to make a site visit and take photographs will help to reduce delays and any potential inconvenience.

10.9 You may be served with a Planning Contravention Notice or a Requisition for Information Notice, both of which require information concerning the alleged development. These notices are used to establish the facts of what has occurred and the details of those with an interest in the land, so that the team may determine whether a breach has taken place and who is responsible.

10.10 If there is a breach, the team will contact you to explain what the breach is and what needs to be done to resolve it. The team will follow the approach detailed in Section 7.

10.11 Planning Enforcement Officers will be happy to explain the different notices, and to help you understand the implications. However, Planning Enforcement Officers will not act as your advisor and cannot make decisions on your behalf. You should consider whether you wish to get your own independent professional advice, you can also seek advice via 'Planning Aid', which is a voluntary service offering free independent, professional advice: www.rtpi.org.uk/planning-aid/.

APPENDIX 1

SCHEDULE OF PRINCIPAL ENFORCEMENT TOOLS AND POWERS

Planning Contravention Notice (PCN)

The power to issue a PCN lies in Section 171C of the Town and Country Planning Act 1990, as amended. This seeks to establish what is happening on a site and who is responsible. It is intended to act as an information gathering tool. The notice requires details and information on an alleged breach of planning control to be submitted to the Local Planning Authority to clarify whether a breach has occurred. Failure to respond within 21 days, or submission of false or misleading information may result in prosecution and a potential fine.

Breach of Condition Notice (BCN)

The power to issue a BCN lies in Section 187A of the Town and Country Planning Act 1990, as amended. This requires the owner or occupier to comply with any outstanding requirements of a condition imposed on the grant of planning permission. A BCN cannot be used in respect of listed buildings, conservation area control and protected trees. The compliance period is a minimum of 28 days from date of service of the notice. There is no right of appeal against a notice. Failure to comply with a BCN is an offence liable to prosecution and a fine of up to £1,000.

Enforcement Notice

The power to issue an enforcement notice lies in Section 172 of the Town and Country Planning Act 1990, as amended. The Local Planning Authority may issue a notice where it considers there has been a breach of planning control and it is expedient to do so i.e. the development is likely to be unacceptable in policy terms, or could not be made acceptable by the imposition of appropriate planning conditions. An Enforcement Notice requires rectification of the breach within a specified timescale and must specify:

- the land to which the notice relates;
- the reasons why it is expedient to take such action;
- the breach of planning control complained of;
- the steps required to remedy the breach;
- the date on which the notice comes into effect; and
- the period for compliance.

There is a right of appeal. An appeal may be made to the Secretary of State before the notice is due to come into effect, usually not less than 28 days after the date of issue. An appeal will suspend the notice until the appeal is determined.

Failure to comply with an Enforcement Notice within the time specified is a criminal offence liable to prosecution, either in the Magistrates' Court where conviction can result in a fine of up to £20,000, or in the Crown Court where conviction can lead to an unlimited fine or even imprisonment.

Listed Building Enforcement Notices are similar to Enforcement Notices, but used where works have been carried out to a listed building, either without the benefit of listed building consent or in contravention of a condition of such consent.

Stop Notice

The power to issue a stop notice lies in Section 183 of the Town and Country Planning Act 1990, as amended. A Stop Notice may be issued to support an Enforcement Notice. It has the effect of requiring a breach of planning control to cease. A Stop Notice is only used where the breach of planning control is causing severe, serious and irreversible harm. The notice usually takes effect after a period of 3 days and prohibits continuation of any, or all of the activities specified in the Enforcement Notice. It cannot be used to prohibit the use of any building as a dwelling house nor require the cessation of any activity which has been carried out for a period of more than four years prior to the service of the notice. Compensation may be payable by the Local Planning Authority if the Enforcement Notice to which the Stop Notice relates is quashed on appeal. Failure to comply with a Stop Notice is an offence liable to prosecution, either in the Magistrates' Court where conviction can result in a fine of up to £20,000, or in the Crown Court where conviction can lead to an unlimited fine or even imprisonment.

Temporary Stop Notice

The power to issue a Temporary Stop Notice lies in Section 171E – 171H of the Town and Country Planning Act 1990, as amended. It does not have to be accompanied by an Enforcement Notice. A Temporary Stop Notice can require the immediate cessation of a breach of planning control for a period of up to 28 days. During this 28 day period an Enforcement and Stop Notice can be served. There is no right of appeal. Failure to comply is an offence subject to prosecution, either in the Magistrates' Court where conviction can result in a fine of up to £20,000, or in the Crown Court where conviction can lead to an unlimited fine or even imprisonment.

Injunction

The power to seek an injunction is conferred by Section 187B of the Town and Country Planning Act 1990, as amended. Where the Local Planning Authority considers that a serious actual or intended breach of planning control is likely to take place it may seek an injunction in the County or High Court. It is not necessary to have considered or exercised any other enforcement power prior to seeking an injunction. The granting of an injunction is at the Court's discretion. The Injunction is generally sought where an operator continues to ignore an Enforcement or Stop Notice, or where there are irreversible consequences i.e. the threatened demolition

of a listed building. Failure to comply with an Injunction constitutes a contempt of court and may lead to imprisonment.

Direct Action

The power for a local planning authority to take direct action to address noncompliance with an Enforcement Notice lies in Section 178 of the Town and Country Planning Act 1990, as amended. If any steps which are required by an enforcement notice to be taken (other than the discontinuance of a use of land), have not been taken within the compliance period, the Local Planning Authority may enter the land and take those steps; and recover from the person who is the owner of the land any expenses reasonably incurred by them in doing so.

Section 215 Notice

Under Section 215 of the Town and Country Planning Act 1990, as amended, a Local Planning Authority can serve a '215 Notice'. This can require land to be cleared and tidied up when its condition adversely affects the amenity of the area. The notice must specify clearly and precisely what needs to be done to remedy the condition of the land and state a period of time within which the works shall be completed. Appeals are made to the Magistrates' Court. Failure to comply is an offence subject to prosecution and a fine of up to £1,000 or daily penalties if the nuisance persists. The Local Planning Authority may resort to direct action and seek to recover the costs of remedial works from the land owner. This may be done by registering a charge on the land at HM Land Registry, so that costs are recovered when the property is sold.

Unauthorised Advertisements

Advertisements which are displayed in breach of the Town and Country Planning (Control of Advertisements) Regulations 2007 constitute an offence and render those responsible and the owner of the land liable to immediate prosecution and a potential fine.

Where an advertisement is displayed with deemed consent under the Regulations, the Local Planning Authority can require its removal by issuing a Discontinuance Notice. Such a notice can only be issued to remedy a substantial injury to an amenity in the locality or a danger to members of the public. This requirement is more stringent than the normal power to control advertisements.

Simple Cautions

A Simple Caution may be offered as an alternative to prosecution when there is an admission. A Simple Caution may be offered if the offence is:

- the first; of a minor or technical nature, or;
- not sufficiently serious to proceed to court;
- admitted by the offender

Community Protection Notice

A Community Protection Notice (CPN) under Section 43 Anti-Social Behaviour, Crime & Policing Act 2014 is intended to prevent unreasonable behaviour that is having a negative impact on the local community's quality of life. It may be considered as an alternative to a Section 215 Notice. A written warning must be issued before a CPN can be used. There is a right of appeal to a Magistrates Court within 21 days of issue. Failure to comply with the requirements of a CPN can result in a fine or the issue of a Penalty Notice.

Prosecution

Decisions to prosecute will be made in conjunction with the Council's legal advisors who will advise on the quality and adequacy of evidence and other legal issues that might be raised. The team can commence court proceedings where a formal notice has been breached. In some instances the team can also commence legal proceedings for unauthorised works without the need to have first served an enforcement notice, for example: unauthorised works to a listed building, damage to a protected tree or an unauthorised advertisement, this is because these are criminal offences.

In deciding whether to prosecute, the Code for Crown Prosecutors will be applied. The Code is a public document issued by the Director of Public Prosecutions which sets out general principles to follow when deciding whether or not to prosecute.

The team will apply two tests in cases where a prosecution appears likely, in consultation with our legal advisors:

The **evidential test**: is there admissible and reliable evidence that the offence has been committed, and that there is a reasonable prospect of conviction?

The **public interest test**: is a prosecution in the public interest?

As a general rule, prosecutions will not be instituted without due warning being given to the persons suspected of committing the offence.

Rights of Entry

Enforcement officers are able to exercise powers of entry contained within sections 196A, 196B and 196C of the Town and Country Planning Act 1990, as amended by the Planning Compensation Act 1991 in order to investigate breaches of planning control. Consideration is always given to article 8 of Human Rights Act 1990 (The right to respect for private and family life) prior to exercising any powers of entry.

Appendix 2 Planning Enforcement - Streamlined Process Chart

