

PLANNING COMMITTEE AGENDA

Tuesday, 20 November 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)

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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
Councillor H Johnson	Councillor Mrs G Spray
Councillor S Kirby	Vacancy
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 clear working days before the day of 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.

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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

PUBLIC SESSION

Page

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 meetings of the Planning Committee held on 30th October 2018 and 6th November 2018 (copies 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. 16 01646 OUT - Land adjacent to Blamsters Farm, Mount Hill, HALSTEAD | 5 - 31 |
| 5b | Application No. 18 00214 OUT - Land rear of Tey Road, EARLS COLNE | 32 - 68 |
| 5c | Application No. 18 00613 REM - Carrier Business Park, East Street, BRAINTREE | 69 - 91 |
| 5d | Application No. 18 00955 FUL - Land at Sixth Avenue, Bluebridge Industrial Estate, HALSTEAD | 92 - 105 |

5e	Application No. 18 01342 FUL - Land off Western Road, SILVER END	106 - 151
5f	Application No. 18 01422 OUT - Broadfield Nursery, Broad Road, BRAINTREE	152 - 167
5g	Application No. 18 01693 FUL - Land off Western Road, SILVER END	168 - 214

PART B
Minor Planning Applications

5h	Application No. 18 01141 FUL - Abbots Hall, Braintree Road, SHALFORD	215 - 232
5i	Application No. 18 01142 LBC - Abbots Hall, Braintree Road, SHALFORD	233 - 245

6 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.

7 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

8 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.

SITE HISTORY

None

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 Publication 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 joint North Essex-Authorities (NEAs) have received a post hearing letter dated 8th June 2018. This letter outlined a number of short comings about the Garden Communities in the Section 1 Plan relating to transport infrastructure, employment, viability, and the sustainability appraisal.

The letter has outlined 3 options for how to proceed with the Section 1 Publication Draft Local Plan.

- Option 1 – Remove the Garden Communities proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time.
- Option 2 – The NEAs carry out further work on evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2 examinations. This option would result in the suspension of the examination, and the part 2 examination could not take place.
- Option 3 – Withdraw Section 1 and Section 2 of the Plans from examination and to resubmit them with any necessary revisions, after carrying out required further work on the evidence base and Sustainability Appraisal, and the relevant consultation and other procedures required by legislation.

A further Supplementary Post-hearing letter dated 27th June has also been received. This letter provided the Inspectors views on policy SP3 of the Section 1 Plan which covers housing requirements. The letter concludes that the housing requirement figures for each of the NEAs set out in policy SP3 is

its respective objectively-assessed housing need, which for Braintree is 716 dwellings per annum.

The North Essex Authorities have agreed to produce further evidence to present to the Planning Inspector on the section 1 Local Plan. The authorities will need to agree with the Planning Inspector a timetable for the completion of this work, but this will result in a delay to the adoption of the Local Plan.

In accordance with paragraph 48 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 48 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
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density

RLP19	Sheltered Housing
RLP56	Vehicle Parking
RLP74	Provision of Space for Recycling
RLP90	Layout and Design of Development
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings

Braintree District Local Development Framework Core Strategy 2011

CS5	The Countryside
CS7	Promoting Accessibility for All
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
LPP17	Housing Provision and Delivery
LPP37	Housing Type and Density
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP71	Landscape Character and Features
LPP80	Sustainable Urban Drainage Systems
LPP60	Heritage Assets and their Settings

Other Material Considerations

Site Allocations and Development Management Plan
 Landscape Character Assessment 2006 & 2015
 Independent Living for Adults with Disabilities - Planning Position Statement
 October 2016

PROPOSALS MAP

The application site is located outside the Halstead Town Development Boundary as designated in the Braintree District Local Plan Review, 2005. The site is proposed to be allocated for 'Specialist Housing' in the Publication Draft Local Plan.

This application has been advertised as a departure from the Council's Adopted Development Plan.

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to the Planning Committee at the request of the Chairman and Vice-Chairman of the Planning Committee, as the proposed scheme could be significant in its impacts.

SITE DESCRIPTION

The application site is located to the north/west of Mount Hill, on the southern approach into Halstead. Residential development is currently being constructed to the south of the site, and there is existing residential development on the opposite side of Mount Hill

The 1.7 ha site comprises a vacant area of land which has been laid to grass and is enclosed on the site boundaries by hedgerows and trees.

Blamsters Farm itself is a Grade II listed 15th Century former Farmhouse. The other buildings that occupy the Blamsters Farm site are a converted barn, a converted chicken hut to the north, and Blamsters farm cottage. These Buildings comprise the Blamsters Farm Care home for people with Learning Difficulties.

The site slopes significantly away from the road in a westerly direction. The site levels change from approximately 70m above ordnance datum closest to Mount Hill to 65m above ordnance datum within the site.

PROPOSAL

This application seeks Outline Planning Permission for 9 no. market and affordable dwellings and 16 supported living homes. Approval is sought for the access; with layout, scale, appearance and landscaping being reserved for later approval.

The application includes the creation of a new access off Mount Hill, to the north east of the White Horse Avenue junction. The new access would be within the 30 mph speed limit zone.

The application is also supported by the following documents –

- Arboricultural Report;
- Planning, Design & Access Statement;
- Indicative Site Plan;
- Phase I Habitat Survey;
- Flood Risk Assessment & Surface Water Drainage Strategy;
- Landscape and Visual Impact Appraisal.

The submitted Planning Statement states that the supported living element shall be capable of providing housing for people with learning disabilities,

Early Onset Dementia, physical/sensory disability and elderly persons. The objective for this element is to contribute towards the need to meet the substantial gap between supply and demand for housing. The demand for supported living housing has been quantified in the 'Needs and Demand Assessment' Essex County Council Adult Social Care Market Position Statement 2012. The personal care needs for residents will vary but for supported living this is encouraged to occur within a normal C3 residential environment and these people will be semi-independent.

CONSULTATIONS

BDC Environmental Health – Raise no objections in relation to environmental health, subject to conditions to protect neighbouring residential amenity during construction.

BDC Waste Services – No comments.

BDC Landscape Services – The site is identified as medium landscape capacity for development. There is scope for suitable landscape mitigation to offset any visual impact from the proposed development. A suitable landscape scheme should be expected to fulfil this expectation.

Previously, concern had been raised about the impact on the veteran tree and associated vegetation on the roadside frontage. The approach to Halstead from Braintree is punctuated by a significant number of mature oaks; some of these are veteran trees (i.e. great age and high conservation value) which make a valuable contribution to the character and setting of the road as it enters the main part of the town. The Arboricultural Impact Assessment correctly identifies a veteran tree T25 and associated vegetation G29 and T27 which will be affected by the proposed new access and footpath requirements. Landscape Services object to the proposal to form the access in proximity to the veteran tree. In this case the proposed works and likely impact on the canopy of the tree from frequent movements by large vehicles during and after construction is likely to have a detrimental amount of attrition. Whilst it is accepted that there may be suitable measures for mitigating the work within the root protection area – it would be preferable if this work was not carried out and the access moved to a more suitable location.

Following these concerns being raised, the access has been moved away from the tree.

There will be a need to provide further survey information on great crested newts and reptiles to assess the impact and how this can be appropriately mitigated within the development.

ECC Highways – Raise no objection subject to conditions.

ECC Historic Buildings Consultant – Considers that the development will further diminish the setting of Blamsters Farm and subsume it into the residential sprawl of Halstead. Comment that the proximity of some units to

Blamsters Farm is undesirable and should be omitted. Further details required on the placement of solar panels to ensure they do not intrude upon the historic environment. The development will have a harmful impact upon the setting of Blamsters farmhouse. This harm is less than substantial

ECC Historic Environment (Archaeology) – No objection. Recommends a condition requiring programme of archaeological work prior to the commencement of development.

BDC Housing Strategy - Policy CS2 of the Adopted Core Strategy seeks affordable housing on schemes of 15 or more units. As the proposal is for a total of 25 residential dwellings, the Policy requires 30% of the dwellings to be for affordable housing which equates to 7 homes.

Anglian Water – The foul drainage from this development is in the catchment of Halstead Water Recycling Centre that will have available capacity for these flows. The sewerage system at present has available capacity for these flows. The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is acceptable. Surface water should discharge at a maximum rate of 5l/s. Request a condition to secure the surface water drainage strategy.

LLFA Essex County Council 'SUDs' – Concern raised; conditions requiring a detailed surface water drainage scheme and maintenance details could overcome these concerns.

ECC Education – Not seeking a contribution towards education.

NHS – Not seeking a contribution towards primary healthcare.

ECC Health Commissioner – Initially raised concerns in relation to an over-provision of supported living units in the locality. In response, the number of units was reduced from 25 to 16.

Community Safety – No response at the time of writing.

Essex Police – No response at the time of writing.

Halstead Town Council – Raise no objections, following consultation response from Essex Highways.

REPRESENTATIONS

Site notices were displayed at the site and neighbours were notified by letter. A total of 14 letters of objection have been received raising the following concerns:

- Insufficient storage for cycles;
- The distance between the development and neighbouring properties;
- The effect of increased traffic levels;

- Impact upon trees and ecology;
- Impact on property value;
- Adequacy of proposed access including visibility and proximity to the bus stop;
- Already experience noise from residents at Blamsters Farm. Noise will increase from a similar type of development/an extension to Blamsters Farm;
- The development is contrary to the adopted Local Plan;
- The development is contrary to the allocation for specialist housing in the draft Local Plan;
- Would set a precedent for further development;
- Concerns about surface water run-off and drainage;
- Concerns about adequate parking for residents, visitors and care employees;
- Bungalows are not in keeping or appropriate for the setting of the listed building;
- Over development of the site;
- No information has been submitted which explains how the supported living homes are different from regular homes;
- The application is a proposal for 25 bungalows for normal residential use in the countryside;
- The proposals offer no specialist care provision over and above that which might be provided in any residential property in any residential street;
- The site is not a sustainable location as the development is likely to increase car journeys;
- Land surrounding the site will be vulnerable to additional pressure for development;
- The site would be an isolated pocket of development.

An objection has been received from the operators of Blamsters Farm wishing to clarify that they have no connection with the applicant or ownership of the site.

REPORT

PRINCIPLE OF DEVELOPMENT

National Planning Policy Framework (NPPF) 2018

As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing

so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision-makers at every level should seek to approve applications for sustainable development where possible.

Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, paragraph 59 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 73 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.

In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan.

The Development Plan

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

The application site is located outside of a designated village envelope/town development boundary and as such is located on land designated as countryside in the Local Plan Review (2005) and the Core Strategy (2011).

Policy RLP2 of the Adopted Local Plan states that new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside these areas countryside policies will apply. Policy CS5 of the Adopted Core Strategy specifies that development outside 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.

The application site is proposed for allocation for development in the emerging Local Plan.

Whilst the development is contrary to the current Adopted Development Plan, it is proposed for allocation within the Draft Local Plan.

5 Year Housing Land Supply

In order to determine whether a given application for a housing scheme should be granted contrary to the provisions of the Development Plan, the Council needs to understand the current housing land supply situation.

In accordance with the PPG, the Council published the housing land supply situation in its Annual Monitoring Report dated 31 December 2017. Following best practice, the Council updated its position on the basis of completion rates in March and June 2018.

However, in July 2018, the Government published a revised NPPF. The Council is bound to take into account this revised version of national policy by s.70(2)(C) Town and Country Planning Act 1990.

By paragraph 73 NPPF, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer. 'Local housing need' is defined as the 'standard method'. The new standard methodology applies a 3 step process as follows:

- Step 1 is the calculation of housing need from the household projections – this derives a baseline target. When new projections are published (usually every 2 years), these should be taken into account and the target recalculated. The 2016 based household projections were published on 20 September 2018;
- Step 2 is an adjustment to take account of affordability, using the most recent published local affordability ratio – this derives a target number of dwellings per annum. New affordability ratios are planned to be published every year. The most recent (2017) local affordability ratios were published in Spring 2018;
- Step 3 caps the level of any increase to 40% over the baseline target. The cap is only applicable if the target number of dwellings per annum, derived from steps 1 and 2, exceeds the baseline target + 40%.

The 5 Year Housing Land Supply target is then calculated as follows: target number of dwellings per annum x 5 years + appropriate buffer (the Council currently accepts that the appropriate buffer for the Braintree District is 20% as required by the NPPF as there has been a significant under-delivery of housing over the previous 3 years).

Since 31st March 2017 the Council has produced quarterly updates on the 5 Year Supply Assessment to assist in the consideration and determination of planning applications. To date, and based on these assessments, the Council within both Committee and Delegated reports, has acknowledged that it is unable to demonstrate a 5 year Housing Land Supply, and as such Paragraph 11 of NPPF (previously Paragraph 14 of the NPPF 2012) is engaged. However, applying paragraph 73 NPPF to its supply, the latest land supply update statement indicates a 5.83 years' supply.

That said, it is important to note that the latest update position is not an annual monitoring report, based on a comprehensive assessment of sites, in accordance with the revised definition of 'deliverable' in the NPPF. That will be done within the 2018 annual monitoring report which is due to be published on 31st December 2018.

In addition, the Council's latest 5 year supply figure of 5.83 years (as at 31st March 2018) must also be considered in the context of the emerging Publication Draft Local Plan. The Publication Draft Local Plan which currently sits with the Inspector must be able to demonstrate a 5 Year Housing Land Supply in order for it to be found sound and adopted. Unlike the current methodology for calculating 5 year supply which takes account of housing undersupply in the standard methodology formula, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years. This results in a higher 5 year supply requirement.

Whilst the presumption in paragraph 11 of the NPPF is not engaged (due to the presence of a 5 Year Housing Land Supply), until the Council has ascertained that it can demonstrate a robust supply within its annual monitoring report and given the Local Plan context described above, it is considered that only moderate weight can be attached to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy). This will need to be considered as part of the overall planning balance, along with any benefits and harms identified within the detailed site assessment considered below.

SITE ASSESSMENT

Location and Access to Services and Facilities

The application site was allocated for specialist housing as part of the preparation of the Site Allocations and Development Management Plan, and carried through to the Publication Draft Local Plan under allocation HATR309.

When considering the site for allocation, the Committee resolved the following:

"That Site HATR309 - Blamsters, Mount Hill, Halstead is allocated for specialist housing and an accompanying Policy prepared on the

minimum level of market housing which could also be provided on the site subject to a viability study”.

Subsequently, HATR309 was included under Policy LPP25 of the Draft Local Plan, which is accompanied by paragraph 6.79, which states:

“This site is allocated, justified on the basis for the need for specialist housing for people with physical impairments and learning disabilities. The scheme is therefore expected to include the minimum market housing necessary to ensure viability of the specialist provision. Any scheme must demonstrate that the minimum market provision has been proposed as part of the application. The extent of County Council involvement in the scheme design should also be made clear. The proposals must conform to the other provisions of the Local Plan with particular attention being paid to the need to prevent adverse impact on the nearby Listed Building and the, location of access to protect an important veteran tree on the site frontage. The scheme will be subject to a full open book viability appraisal at the cost of the developer.

Policy LPP25 of the Draft Local Plan states:

“Land north of Mount Hill A131 is allocated for 16 units of specialist housing for people with physical impairments and learning disabilities together with the minimum number of ancillary open market housing necessary to ensure their viability. In particular, any application will be expected to address the following;

- If market housing is to be provided, it must be accompanied by, and its numbers fully justified by an open book viability assessment*
- Impact on the nearby listed building*
- Details of the specialist housing provision and Essex County Council involvement*
- Satisfactory vehicular and pedestrian access which retains frontage trees and vegetation as far as possible “*

Policy LPP35 of the Draft Local Plan states:

“Specialist housing is defined as accommodation, which has been specifically designed and built to meet the needs of the elderly, disabled, young or vulnerable adults, and may include some elements of care and support for everyone who lives there.

Proposals for specialist housing provision are allocated on the Proposals Map and will be permitted within development boundaries providing that all the following criteria are met:

- a. Everyday services that users would expect to access, such as shops should be available on site or should be located close by and be able to be accessed by a range of transport modes*
- b. Health services should be available on site or in close proximity and have capacity to accommodate the additional services required from residents*

*c. Parking should be provided in line with the Council's adopted standards
d. There is an appropriate level of private amenity space to meet the needs of residents.*

*Minor extensions to, or the expansion of existing specialist housing in the countryside, may be acceptable if all the following criteria are met;
i. The scale, siting and design of proposals is sympathetic to the landscape character and host property
ii. The Council will have regard to the cumulative impact of extensions on the original character of the property and its surroundings
iii. 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.*

New specialist housing on unallocated sites in the countryside will not be supported.

On sites allocated for specialist housing, general needs housing will not be permitted.”

In policy context, the application can be considered acceptable in terms of principle, provided the submission can be justified in terms of viability, and other material considerations which are discussed below.

Viability – Mixture of Specialist Housing & Market Housing

In order to justify the quantum of market housing required to support the specialist housing proposed, the applicant submitted a viability appraisal which the Council has had independently assessed.

The viability assessment concluded that a mixture of 16 specialist housing units and 9 market housing units would offer a return which would conform to the land value benchmark. Officers are therefore satisfied with the proposed quantum of market housing to support the specialist housing units.

The proposal therefore complies with the policy set out in the Draft Local Plan specific to this site.

Design, Appearance, Layout and Impact upon Character of the Area

Although this application is for outline planning permission, with all details relating to design, layout and appearance being reserved for future considerations, there are a number of constraints surrounding the site which could prevent planning permission from being granted in outline form.

These include a listed building nearby, and whether the number of units proposed is too intensive for the site. In order to address this, an indicative layout plan was submitted with the application. Although it should be noted that this is indicative only and will not form part of the approval, it shows how

the units could be accommodated on the site without prejudicing the nearby listed building or the residential amenities of the occupiers.

In terms of the design and layout, the drawings show how the mixed uses and specialist care element can be suitably accommodated on the site in a spatially efficient arrangement. This can be served from the proposed access in a safe and logical manner.

It is recommended that a parameter plan is required by way of a condition to define the separate developable areas for C2 and C3. Furthermore, the Section 106 Agreement will secure the large areas of open space.

A Landscape Visual Impact Assessment was submitted with the application, which found that with the inclusion of additional infill planting of copses, trees and hedgerows, visibility into the site would be limited, and with the exception of harm to the setting of the Grade II listed building Blamsters Farmhouse, there would be no adverse impacts upon the landscape features.

The provision of additional planting, and the protection of existing vegetation around the site (with the exception of the area where planting would be removed to make way for the vehicular access) can be secured by planning condition and in this regard is acceptable.

Impact Upon the Historic Environment

The site of the proposed development is within close proximity to Blamsters farmhouse (Grade II - HE Ref: 1122414) and has a visual relationship with Holy Trinity Church (Grade II* - HE Ref: 1122421) and the Halstead Town Centre Conservation Area. Many of the outbuildings which surround Blamsters will be curtilage listed.

In seeking to ascertain impacts on these heritage assets, the submitted design and access statement states:

“Views of the subsidiary south-east and south-west elevations are currently available from Mount Hill and it is a principal concern that the development minimizes the visual impact of the new buildings and maintains clear views of Blamsters farm. The topography of the site has been used wherever possible to reduce the visual encroachment of the new buildings onto the view of Blamsters Farm. It is intended that landscaping will be used to frame, and form the views of the listed building, and where necessary protect.

The fall of the site to the north will reduce the impact to Mount Hill road and the views from Mount Hill road toward the listed building. Holy Trinity Church Halstead, a grade 2 listed building, is located about 500m to the East of the site but it is not particularly well related to the site area itself. A view of the church can be achieved from Mount Hill Road toward the existing access position overlooking the site to the north and east. The development will maintain this view.*

New tree planting to be introduced to formalise the entrance to the site, to protect the primary views of the listed building and to form an amenity area to the site.”

The submitted heritage statement sets out the significance of the nearby listed buildings, stating:

“The south elevation is the one that can be appreciated from the proposals site and seen from Mount Hill Road on the approach to Halstead. This side of the wing consists mostly of relatively modern accretions that conceal the 15th century house so from the point of view of understanding the historic building has little to offer. Blamster’s siting is important as a landmark at the entrance to the historic market town and the house offers an attractive grouping of roofs and chimneys when viewed from the south.

Setting of Blamsters from the south and east:

The best views of the house are available from Mount Hill which show an attractive jumble of roofs and chimneys sitting on top of a slight eminence and above the floor of the small valley that intervenes between the road and the farmstead. These are sporadic framed by gaps in the hedgerow and more enjoyable because of that.

Harm to the setting of the farmhouse and it’s significance as a landmark structure outside the market town will be avoided by:

Using the topography

The bulk of the development will be sited in the bottom of the valley allowing an unlimited view from the road side on the crest of the valley to Blamsters which sits high up amongst the trees on the opposing side.

Use of siting

The new buildings will be sited so that they do not intrude on the principal views from the road across the valley to the farm-house, and they will not appear within in the principal views of the house. Careful siting will also preserve the views of Holy Trinity Church that are available from within the site.

Use of design

The new buildings are single storey and low lying they will appear below the tree-line. Materials will be selected from a palette that is sympathetic to the historic environment and does not damage the traditional rural qualities of the site.

Alignment of the new driveway and footpaths within the site

The location of the new driveway and its point of access from Mount Hill Road will open up the view across to Blamsters and bring visitors onto the site at a point where they can enjoy that same view.”

The Historic Buildings Consultant considers that the development of this land would further diminish the rural setting of Blamsters farm and effectively subsume it into the residential sprawl of Halstead. Whilst efforts can be made to lessen the resultant harm it cannot be eliminated. The harm caused to the setting of the Listed Building is considered to be less than substantial. In accordance with Paragraph 196 of the National Planning Policy Framework, this harm must be assessed against public benefits brought about by the scheme. The net gain of 16 specialist housing units and 9 market housing units is in itself considered to be a public benefit, as it will result in a contribution to the housing supply.

Furthermore, as set out in the submitted information, it is considered that there are acceptable solutions to minimise impacts on the nearby listed buildings. These solutions can form part of an application for reserved matters.

When balancing the public benefits against the less than substantial harm identified above, Officers consider that the public benefits brought about through the proposed development, i.e. the provision of specialist housing, of which there is a recognised need, and market housing, would outweigh the less than substantial harm caused to the setting of the listed building. Furthermore, harm could be minimised during the consideration of a reserved matters application.

Highways, Transport and Parking

A plan showing the proposed vehicular access has been submitted with the application. This shows visibility splays of 60 metres in both directions. The plans show that the existing Oak tree would not impede the visibility splays but part of the existing hedge would need to be removed or reduced to 600mm.

The Highway Authority has considered the details provided and not raised an objection to the proposal subject to adequate visibility splays being achieved. The consultation response from the Highway Authority requires visibility splays of 2.4 metres x 120 metres toward the west, as measured from and along the nearside edge of the carriageway in both directions. This is shown on the indicative site plan and appears to be clear of the existing Oak tree along the sites frontage.

A planning condition is recommended, requiring the access to be constructed in accordance with the submitted plans (Condition 8)

The provision and layout of parking would be dealt with at Reserved Matters stage as part of layout and design. This aspect would be expected to include off road and visitor parking and cycle parking in accordance with the Council's adopted Parking Standards. Details of a travel plan would also be expected within an application for reserved matters.

Flood Risk and Sustainable Drainage

The site lies in Flood Zone 1 where there is the lowest risk of flooding. Paragraph 103 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. It states that priority should be given to the use of sustainable drainage systems.

Part H of the Building Regulations prioritises discharges to the ground and then a watercourse, with discharge to a sewer only to be considered when both infiltration and discharge to a watercourse is not reasonably practicable.

Currently there are no existing formal foul or surface water drainage systems on the site; the development would therefore need to establish suitable outfall locations for both.

An existing foul water sewer maintained by Anglian Water (AW) is located in Acorn Avenue and crosses the open field between there and Mount Hill immediately north of the site.

The application proposes connecting to this sewer via a connection to an existing manhole, approximately 7 metres beyond the northern boundary of the site. Details provided indicate that infiltration would not be a suitable method for the disposal of surface water on this site. It is therefore proposed to connect to an existing surface water sewer maintained by Anglian Water (AW), which is located in Acorn Avenue and crosses the open field between there and Mount Hill immediately north of the site.

It is proposed to attenuate and manage surface water runoff with a SuDS drain. A detention basin located at the southern end of the site will be provided to provide a further treatment stage before discharge to the public surface water sewer. A hydrobrake or similar device will be used to restrict outflow rates to the greenfield runoff rate of 1.3 litres per second, prior to discharge to the detention basin.

To protect the proposed building from any overland flow caused by saturated ground conditions or damaged infrastructure, it is proposed to set the threshold level at 150mm above the proposed external ground levels, to prevent ingress into the dwellings.

The Council's drainage officer raised no objections to the proposals. The Local Lead Flood Authority (LLFA) raised concerns within their consultation response, however acknowledged that these could be addressed through the imposition of suitable conditions. Conditions are recommended in relation to

surface water flooding, satisfactory discharge with the sewer authority, greenfield runoff rate, surface water treatment, permeable paving modelling, and the need for a construction management plan.

The developer will be required to serve a notice on the Sewerage Undertaker under section 106 of the Water Industry Act 1991 in relation to the connection to the public sewer. This is not a matter which can be controlled by the planning system.

Subject to the imposition of the recommended conditions, the proposal is considered to be acceptable in terms of flood risk and sustainable drainage.

Impact on Neighbouring Amenity

One of the core planning principles set out in the NPPF is to secure a good standard of amenity for all existing and future occupants of land and buildings. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan also state that development should not have an unacceptable impact upon neighbouring amenity.

The applicant is not seeking approval for the appearance, scale, and layout of the development at this stage. The impact upon neighbouring residential amenity is an important material consideration, however given this is an outline application it is not possible to understand a full assessment as to the impact of the development. These matters would be considered at the reserved matters stage, however an illustrative plan has been provided, which demonstrates that a satisfactory layout could be achieved.

It is acknowledged that the dwellings opposite the proposed access are located close to the road, one of which is directly opposite and within 8 metres of the indicative access as shown. The two dwellings closest to the proposed access both have hardstandings available for parking across their frontages. The outlook from these dwellings would change and the development would give rise to additional vehicle movements close to these dwellings. However the scale of the proposed development is such that it is not considered that these would give rise to impacts upon residential amenity which would be so harmful that they could substantiate withholding planning permission.

It is considered that the proposed development could be sited and designed in such a way that it would not have an unacceptable impact upon neighbouring amenity.

Archaeology

The Essex Historic Environment Record shows that the proposed development would affect a site of archaeological interest. As a result the County Council's Historic Environment Officer has recommended that a condition be applied which requires that an agreed programme of archaeological work should be carried out prior to the commencement of

development to determine the nature and extent of any archaeological remains.

Construction Activity

BDC Environmental Health have been consulted regarding the proposed development, and have raised no objections, subject to a number of conditions to control construction activity (hours of working; piling; dust and mud control). It is inevitable that there will be some disruption with construction activities, however these would not be permanent in nature and would not result in unacceptable impacts upon neighbouring residential amenities.

Landscape and Ecology

Policy RLP80 of the Adopted Local Plan states that proposals for new development will be required to include an assessment of their impact on wildlife and should not be detrimental to the distinctive landscape features and habitats of the area such as trees, hedges, woodlands, grasslands, ponds and rivers. Development that does not successfully integrate into the local landscape will not be permitted. All new development will be expected to provide measures for any necessary mitigation of their impact upon wildlife and for the creation and management of appropriate new habitats. Additional landscaping including planting of native species of trees and other flora may be required to maintain and enhance these features.

Policy RLP84 of the Adopted Local Plan 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. Where appropriate, the Planning Authority will impose conditions and/or planning obligations to:

- a) Facilitate the survival of individual members of the species
- b) Reduce disturbance to a minimum; and
- c) Provide supplementary habitats.

An Arboricultural Assessment has been submitted with the application. Buildings would be within close proximity of existing trees, but outside of canopy spreads of retained trees; no pruning will be required to provide clearance and the separation is good.

The tree stock on site generally forms part of field boundaries. As such they are of high landscape amenity value and provide valuable wildlife corridors and habitats. The tree cover also serves to soften the visible appearance of the existing buildings whilst restricting views both in and out of the site.

There are 16 trees and 1 group of trees which have been categorised within the site. 7 trees are categorised as A, 5 B and 5 trees/groups C.

The construction of a new access point from Mount Hill is proposed within the protection area of 1 moderate value tree and a potential footpath location runs through the protection area of 1 high value tree (an Oak tree and a Sycamore tree). These changes may cause harm if not carried out with care. The Consultants have reviewed the situation closely and believe that these trees may be retained successfully if appropriate protective measures are correctly specified and implemented. These protection methods can be required by way of condition.

The application includes the removal of one Category C tree; the Landscapes Officer is satisfied that this is of insufficient value to influence any layout and any risk of damage would not influence the determination of this application.

The application does not include details of final levels across the site. Any level changes within the root protection area of existing trees on the site may cause irreparable damage. The No-Dig methodology requires that original levels be retained and built upon to provide new surfaces. Therefore, where relevant the original levels must be noted and integrated into the engineering design of the site.

No details of service or utility runs have been supplied for consideration within this assessment, however, the submitted details suggest that due to the existing site layout and location of retained trees it is anticipated that there would be no conflict with the root protection zones.

There is scope for new planting within the site which could be secured by condition. This would also enhance biodiversity within the site.

An ecological scoping survey was also submitted with the application, which assessed a multitude of protected species. Its findings are included below:

- *“Six species of bird were recorded during the survey, one of which song thrush *Turdus philomelos* is on the Birds of Conservation Concern Red List.*
- *No further bird surveys are required.*
- *There is suitable nesting habitat in the trees and scrub.*
- *Recommendations are made to mitigate the loss of potential nest sites.*
- *No evidence of badgers was found during the survey.*
- *No further badger surveys are required.*
- *The habitat assessment for reptiles, recorded the habitat as having the potential to support reptiles.*
- *Further reptile surveys are required.*
- *The survey of trees for bat roost potential showed that all the trees within the site boundary were graded as negligible potential to support roosting bats.*
- *No further bat surveys are required.*

- *The A Habitat Suitability Index (HSI) and Pond Suitability (PS) was carried out on a pond that abuts the site. Pond 1 came out as HSI 0.66, PS of average and the predicted presence of great crested newt was 0.55.*
- *Recommendations are made to mitigate the potential for great crested newts to be on the site.”*

There are various recommendations set out in the Aboricultural Assessment, which relate to the timing of works, provision of external lighting, nest boxes, and the use of reflective surfacing.

All nesting birds are protected under the Wildlife and Countryside Act 1981, which makes it an offence to kill, injure or take any wild bird or take, damage or destroy its nest whilst in use or being built, or take or destroy its eggs. It is recommended that to prevent harm to nesting birds, any necessary clearance or reduction of the hedgerow should be conducted outside of the main bird breeding season (March until the end of August). If the Council were minded to approve the application an informative could be added to the decision reminding the applicant of the legal duties with regard to protected species.

The reptile survey recorded a single immature grass snake ‘Natrix natrix’. As grass snakes are renowned for being transient animals, a capture programme is not recommended. A mitigation package will not be required.

Habitat Regulations Assessment

Natural England have published revised interim guidance on 16th August 2018 in connection with the emerging strategic approach relating to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations.

In accordance with the revised interim guidance an appropriate assessment has been completed for this application, as it falls within the threshold of a scheme of 99 residential units or less and is located within the updated Zones of Influence. Where an appropriate assessment concludes that a likely significant effect would occur, the Local Planning Authority is required to secure a financial contribution towards off site mitigation at the identified natura 2000 sites to mitigate the impact of the development upon these sites.

However, whilst the appropriate assessment of the Local Plan has identified a likely significant effect for all residential development in-combination with other plans and projects, the amount of minor and major development proposals for 1-99 houses that is likely to be granted planning permission prior to the adoption of the RAMS, which will require financial contributions for all residential proposals, is considered to be de minimis considering that the RAMS will be dealing with the in-combination effects of housing growth across Essex over a 15 year period. As such, it is concluded that this proposal would not have a likely significant effect and therefore no financial contribution is

requested in this case. Notwithstanding the above, at the present time, there are no specific costed projects identified and no clear evidence base to give the Local Planning Authority any ability to impose such a requirement for a proportionate, evidence based contribution.

Section 106

A Section 106 agreement would be required to secure a financial contribution towards public open space of £1078 for each 1 bedroom dwelling, £1576 for each 2 bedroom dwelling, £2156 for each 3 bedroom dwelling, and £2488 for each 4 bedroom plus dwelling and securing the specialist housing with nomination rights to Essex County Council.

CONCLUSION

As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located outside of a designated village envelope/town development boundary and is therefore located within the countryside, where new development is 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. There is therefore a presumption that the application should be refused unless there are material reasons to grant planning permission.

Although the Council can currently demonstrate a 5 Year Housing Land Supply (5.83 years as at 31st March 2018), this latest update position, as identified above, is not an annual monitoring report based on a comprehensive assessment of sites in accordance with the revised definition of 'deliverable' in the NPPF. Therefore the current position of 5.83 years does not represent a robust housing supply position. In addition, and as highlighted above, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years, which will on adoption of the Local Plan, result in a higher 5 Year Housing Land Supply requirement.

The Government's policy objective of significantly boosting the supply of homes as highlighted in Paragraph 59 of the NPPF is an important material consideration in this case, however this in itself is not considered to be sufficient to outweigh the conflict with the Adopted Development Plan as identified above. In contrast, the above factors which affect the robustness of the Council's current 5 Year Housing Land Supply, are also considered to be important material considerations, which in Officers view, justify attributing only moderate weight to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy).

As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so

that opportunities can be taken to secure net gains across each of the different objectives): an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure); a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

The application would secure significant social and economic benefits, through the provision of residential development in a sustainable location on the edge of Halstead, most of which would be specialist housing, of which there is a recognised need for in the District. As such the proposed development would make a contribution towards the District's Housing Land Supply, which weighs in favour of the proposal. There would be additional short term employment created whilst the development is being constructed. Whilst it is acknowledged that there would be environmental impacts, to the designated heritage assets and some impacts upon the protected trees on the site, these could be mitigated/minimised through the imposition of appropriately worded planning conditions and at the reserved matters stage.

When considering the planning balance and having regard to the benefits as identified above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that there would be benefits brought about by this proposal, and that there is no conflict with the Braintree District Publication Draft Local Plan. Officers therefore consider the proposed development would constitute sustainable development and recommend that planning permission is 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

Topographical Survey	Plan Ref: 11213/T/01-04
Topographical Survey	Plan Ref: 11213/T/02-04
Topographical Survey	Plan Ref: 11213/T/03-04

Topographical Survey	Plan Ref: 11213/T/04-04	
Location Plan	Plan Ref: SK 100	
Planning Layout	Plan Ref: SK-305	Version: 1
Highway Plan	Plan Ref: REDW3214-100	Version: A
Planning Layout	Plan Ref: REDW-3214-104	
Planning Layout	Plan Ref: SK 313	Version: C
Access Details	Plan Ref: SK 312	Version: C
Public Open Space Details	Plan Ref: SK314	Version: C

1 Details of the:-

- (a) scale;
- (b) appearance;
- (c) layout of the building(s);
- (d) 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

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 dwelling-house falling within Class C3 as permitted by Class A 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.

- 4 The landscaping scheme required by Condition 1 of this permission shall incorporate a detailed specification of hard and soft landscaping works. This shall include plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage, signs and lighting.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development.

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier.

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.

Reason

Landscape planting will add character to the development and it is considered desirable for these to be dealt with concurrently with the other details.

- 5 No development or preliminary groundworks of any kind shall take place until the applicant has secured and undertaken a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority.

Reason

The site may be of archaeological interest.

- 6 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:
 - o 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.
 - o Final modelling and calculations for all areas of the drainage system.
 - o The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
 - o Detailed engineering drawings of each component of the drainage scheme.
 - o A final drainage plan which details exceedance and conveyance

routes, FFL and ground levels, and location and sizing of any drainage features.

- o 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 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.

- 7 Prior to the first use of the construction access, it shall be provided in accordance with submitted drawing REDW -3214-104 including the provision of visibility splays as detailed (2.4m x90m to north and 2.4m x 120m to the south). The area within each splay shall be kept clear of obstruction 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.

- 8 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.

- 9 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.

- 10 Development shall not be commenced until a dust and mud control

management scheme has been submitted to and approved in writing by the local planning authority and shall be adhered to throughout the site clearance and construction process.

Reason

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

- 11 The development shall be carried out in accordance with the approved Arboricultural Report listed above, undertaken by Hallwood Associates, dated February 2017. No alterations or variations to the approved works or tree protection schemes shall be made without prior written consent of the local planning authority.

Reason

To ensure the protection and retention of existing/remaining trees, shrubs and hedges.

- 12 Prior to the commencement of development, a construction traffic management plan, to include but 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 approved details and thereafter retained as such.

Reason

To ensure that vehicles can enter and leave the highway in a safe and controlled manner.

- 13 Prior to the commencement of development, details of the proposed relocation of the Halstead town sign (located to the south of the site access) shall be submitted to and approved in writing by the Local Planning Authority.

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.

- 14 Prior to the occupation of the development, details of the 2 metre wide footway shall be provided from the site access continuing to join with the existing footway along the A131 Mount Hill shall be submitted to and approved in writing by the Local Planning Authority. The details hereby approved shall be implemented in accordance with the approved details, and permanently retained as such.

Reason

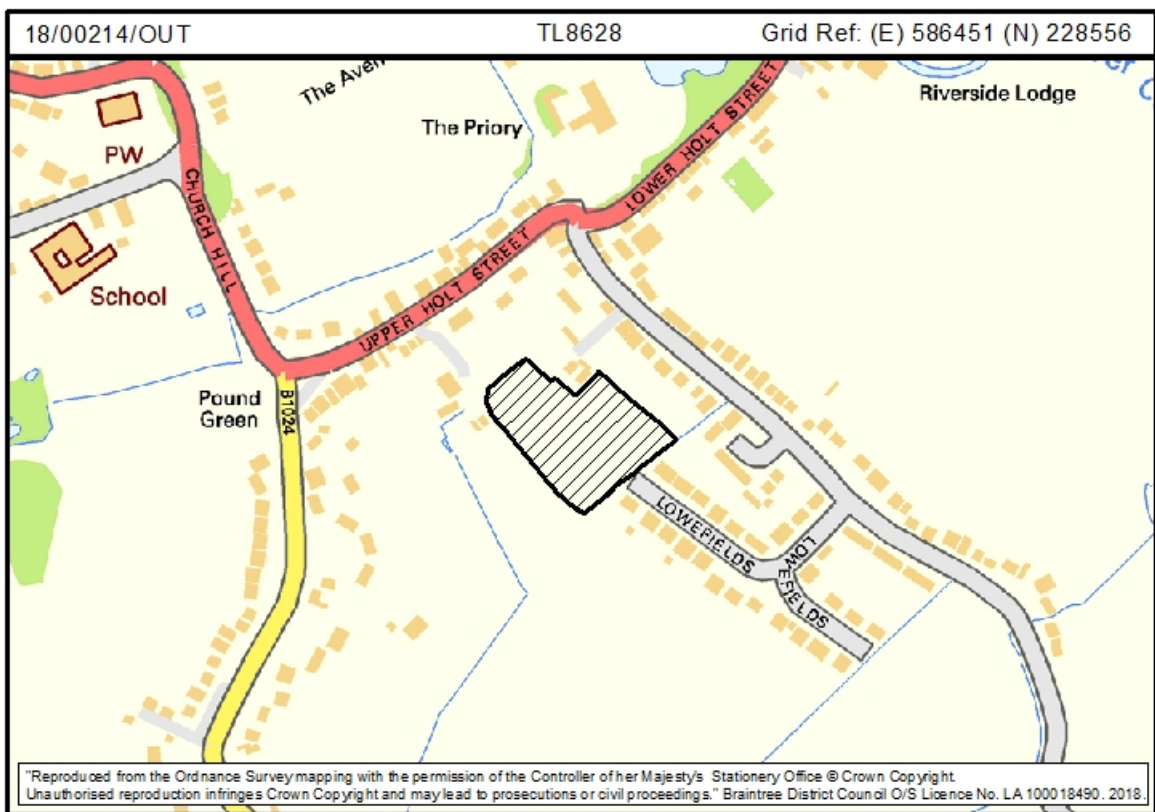
In the interests of highway safety.

CHRISTOPHER PAGGI - PLANNING DEVELOPMENT MANAGER

PART A

APPLICATION NO: 18/00214/OUT DATE: 30.01.18
 VALID:
 APPLICANT: Mr And Mrs Robinson
 Springtrees, Tey Road, Earls Colne, Colchester, Essex,
 CO6 2LG
 AGENT: The Planning And Design Bureau Ltd
 Mr Stewart Rowe, 45 Hart Road, Thundersley, Benfleet,
 Essex, SS7 3PB
 DESCRIPTION: Erect 23 No. Detached and Semi-Detached, 1,2,3,4 and 5
 Bedroom Dwellings and Associated Garages, Lay Out
 Parking, Amenity Areas, Public Open Space, Estate Roads,
 Private Drives, Drainage Infrastructure and Landscaping
 LOCATION: Land Rear Of, Tey Road, Earls Colne, Essex

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

None

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 Publication 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 joint North Essex-Authorities (NEAs) have received a post hearing letter dated 8th June 2018. This letter outlined a number of short comings about the Garden Communities in the Section 1 Plan relating to transport infrastructure, employment, viability, and the sustainability appraisal.

The letter has outlined 3 options for how to proceed with the Section 1 Publication Draft Local Plan.

- Option 1 – Remove the Garden Communities proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time.
- Option 2 – The NEAs carry out further work on evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2 examinations. This option would result in the suspension of the examination, and the part 2 examination could not take place.
- Option 3 – Withdraw Section 1 and Section 2 of the Plans from examination and to resubmit them with any necessary revisions, after carrying out required further work on the evidence base and Sustainability Appraisal, and the relevant consultation and other procedures required by legislation.

A further Supplementary Post-hearing letter dated 27th June has also been received. This letter provided the Inspectors views on policy SP3 of the Section 1 Plan which covers housing requirements. The letter concludes that

the housing requirement figures for each of the NEAs set out in policy SP3 is its respective objectively-assessed housing need, which for Braintree is 716 dwellings per annum.

The North Essex Authorities have agreed to produce further evidence to present to the Planning Inspector on the section 1 Local Plan. The authorities will need to agree with the Planning Inspector a timetable for the completion of this work, but this will result in a delay to the adoption of the Local Plan.

In accordance with paragraph 48 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 48 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
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP22	Accessible Housing and Lifetime Housing

RLP10	Residential Density
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP52	Public Transport
RLP54	Transport Assessments
RLP56	Vehicle Parking
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
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

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

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
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
LPP78	Flooding Risk and Surface Water Drainage
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting

Other Material Considerations

Essex Design Guide

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

Essex Parking Standards/Urban Space Supplement

Village Design Statement

Open Space SPD

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to the Planning Committee in accordance with the Council's Scheme of Delegation as the application is considered to be of significant public interest.

SITE DESCRIPTION

The site relates to paddock land located behind Tey Road in Earls Colne. The land is relatively open within the site but is surrounded by residential development on three sides from Upper Holt Street to the north west, Tey Road to the north east and Lowefields to the south east. To the west is a further paddock. The existing vehicular access to the site comes from a private drive serving 'Springtrees' and a low key B8 (storage) complex of buildings on the northern tip of the site.

In terms of heritage and wider context, the site falls adjacent to the boundary of the Earls Colne Conservation Area, albeit with heavy screen planting along the rear edge of the plots along Upper Holt Street which form the boundary. To the south and east of the site are 41 and 43 Tey Road, a pair of cottages,

which previously formed a single house of fifteenth or sixteenth century construction, with later alterations. The pair are together listed Grade II. To the north of the site, fronting onto Upper Holt Street, Chandlers is also listed Grade II. Public Right of Way 75_34 runs parallel to the southern tip of the site extending from Tey Road, through to Lowefields and eventually Coggeshall Road. On the adjacent paddock is also a row of trees subject to a Tree Protection Order.

PROPOSAL

The application in this case seeks outline consent with all matters reserved for later consideration other than access and layout for the erection of 23 dwellings. The application would close up the existing private access from Tey Road and instead take vehicular access from Lowefields. The application originally proposed up-to 30 new dwellings on the site which has since been revised to 23 new dwellings to overcome layout concerns raised by officers.

The proposed layout would include a new internal spine road through the development site going all the way to the very top edge of the site. Plots 15-23 would back onto existing development at Tey Road, while also mirroring to some extent the linear pattern of development found on Lowefields. This linear pattern of development is also reflected on the other side of the internal spine road, there would however be some development in depth on this side with Plots 3,4 and 10.

The exact scale and appearance of each of the dwellings is reserved for future consideration and is purely indicative. Details would be considered at the reserved matters stage. It is proposed however that all existing boundary treatments are retained with only scrub vegetation removed.

The development would also secure 40% of the houses as affordable housing (9 units) and would also propose an area of amenity open space on the northern tip of the site.

CONSULTATIONS

Braintree District Council Environmental Health

No objection subject to conditions relating to site clearance, no burning, dust and mud scheme, no piling & contamination risk assessment.

Essex Police Architectural Liaison

No objection – welcome opportunity to assist with compliance of Approved Document "Q" by achieving a Secured by Design award with developer.

Essex Historic Buildings Consultant

No objection; considers that the development of the site would not result in anything other than minor potential harm to heritage assets which could be mitigated at reserved matters stage.

Braintree District Council Waste Services

No comments.

Essex SUDs

No objection; subject to conditions relating to surface water drainage strategy, minimising run-off water during construction, maintenance plan for surface water and yearly logs of maintenance.

Anglian Water

No objection subject to foul water & surface water strategy condition.

Essex Archaeology

No objection subject to conditions in relating to a written scheme of investigation, mitigation strategy and post excavation assessment.

Essex Education

Initially requested £114,606 for primary education and £20,805 based on the 30 dwelling scheme. With revised number of dwellings (23), the contribution has been reduced to £87,865 for primary education and £15,950.50 for secondary school transport contribution.

NHS

The NHS were consulted on the planning application, however no response was received, perhaps owing to the scale of development.

Braintree Ecology Officer

No objection subject to conditions in relation to lighting, mammal protection during construction, nesting birds, ecological enhancement plan and a landscape and ecological management plan.

Braintree Landscape Services

No objection to the development however raise concerns in respect of future maintenance of the hedge adjacent to Plots 3 & 4 (*management strip created there to act as buffer*).

Braintree Strategic Housing

No objection – development would require 9 affordable units:

Unit Tenure + Mix			
<u>Type</u>	<u>No.</u>	<u>Rented</u>	<u>Shared Ownership</u>
1 Bed 2 person flat	2	2	0
2 Bed 4 person house	6	3	3
3 Bed 5 person house	1	1	0
Total	9	6	3

Essex Highways

No objection to the development subject to conditions relating to the site access. Residents also provided their own transport statement. The comments of Essex Highways were as follows to this:

“Thank you for sending the Ardent report which we’ve reviewed and noted its content. As you know, when assessing a planning application, we remain impartial at all times and base our review and recommendation on the information submitted as well as our own information and knowledge of the highway network.

We acknowledge the layout of the A1124/Tey Road junction is unconventional but note that there is no accident record, this suggests that perhaps its unconventional layout means drivers are more cautious.

Furthermore, given the modest scale of the development we do not consider its impact would be severe and there is likely to be only a modest increase in traffic. This is why the Highway Authority are not able to raise an objection.”

Earls Colne Parish Council

Objects to the development based on the following summarised reasons:

- Outside of development limits
- Junction of Lower Hold Street and Tey Road very dangerous – additional traffic would make this situation worse
- Congestion issues on Tey Road
- Detrimental impact on wildlife
- Layout overly dense
- Development of 2/2.5 storey houses out of character
- Substandard footway along Tey Road – pedestrians having to walk on road – additional traffic issue

- Distances to amenities and facilities exceed recommended lengths in the Essex Design Guide

REPRESENTATIONS

Two group objections reportedly from more than 160 local residents (on initial and revised scheme) have been received, also with a petition signed with approx. 116 signatures. In addition to this, 121 letters of representation were received from 72 individual properties:

- 1a, 3, 4, 6, 8, 9, 10, 11, 12, 16, 18, 20, 22, 24,, 26, 28, 29, 30, 36, 39, 49, 51, 55, 59, 61, 63, 65 - **Tey Road**
- 1, 3, 4, 6, 7, 8, 10, 16, 18, 19, 20, 22, 24, 25, 26, 29, 30, 33, 34, 35, 36, 37, 49, 51,, 55, 59, 61, 63, Woodpeckers - **Lowefields**
- Dovers Barn, 24, 26a, 28, 30 - **Upper Holt Street**
- Munns Farm, Hill Rise & Ford Mill House - **Elms Hall Road**
- The Lound Maldon Road Witham
- 6 Josselin Close
- 3 Kemsley Road
- 4 The Spinney, Braintree
- Flat 21, Lydgate Court – Bury St Edmunds

Two general comments were also received from 56 Park Lane and 11 Tey Road. The group objections and individual objections/comments are set out the following summarised concerns below:

- Road from Chalkney Woods in poor state of repair – traffic would increase along there – construction traffic would not cope & could impact upon pedestrians – users already utilise Tey Road – more delivery vehicles etc going to site – would be diversion route if Tey Road is shut and would not be adequate
- Tey Road
 - narrow highway – lots of local residents park on it because of a lack of off-street parking causing it to be narrow – large vehicles cannot get through and no footpath on some elements so residents forced to walk on the road
 - Noise & pollution issues during construction – road closures for gas works etc – construction vehicle parking will cause issues
 - point of congestion at its junction with Lower Holt Street – blind bend – drivers turning right having to use other side of road for visibility – addition of 30 new homes worsen this impact and make it more unsafe with increased traffic – already accidents happen and bumps and scrapes which do not get reported – cannot be widened due to historic buildings – some of which are flats with associated issues of car parking close to junction – highways officers wrong – speeds are high on the road – zebra crossing not given permission due to road speeds
 - separately commissioned transport/traffic report (by neighbours) – said junction not safe

- Lowefields - cannot cope with extra houses using road & construction traffic
- Transport statement provided misleading and not accurate
- Affect quality of life for residents and affect view of the field at rear of houses
- Increase in noise pollution from future residents of development – affect local business and quiet residential streets with elderly residents
- Poor accessibility to local services and facilities – those services that do exist will have unacceptable strain put on them – local busses at capacity at peak times – it's a village not a town – people will still drive to higher order settlements
- Issues with affordable housing maintenance & area not affordable in general
- Out of character with the area – Lowefields mainly bungalows
- Outside of village envelope – rejected as part of local plan
- Crammed overdevelopment – need more parking to avoid overspill of parking – too high density – development hard up against boundaries – small gardens– lack of visitor parking - plans not accurately reflect wider context – urban plan for rural location – will have visibility in wider area due to land topography - Revised proposal – higher proportion of 4 & 5 bed houses –possibility of more than 2 cars needed
- Set precedent for further development on similar sites
- Other approvals for other housing development of large scale elsewhere in the village & West Tey development not too far away – cumulatively the village cannot cope – extra traffic and demand for services – why over half of 716 be located in village
- Overlooking & overshadowing from new development into existing development
- Footpath floods in winter months – also significant increase in water flow from development – water course will be affected – how managed and mitigated? – Anglian water object but want further information – Flood risk assessment has no allowance for climate change or urban creep
- Loss of mature trees and inadequate protection during construction for retained trees
- Reduction in animal habitat and loss of meadow land – danger to wildlife – with horses removed become haven for wildlife - should have further ecological surveys
- Land ownership queries
- Little economic benefits of development – no local suppliers of materials in village
- No S106 contributions proposed that would go towards the development/wouldn't be appropriate
- Impact upon Listed Buildings
- Question whether suitable electricity and telecom connections can be made
- Nearest bus stop some distance away from the site
- Minimal local consultation prior to submission of application
- Grade 3 agricultural land – high quality

- Archaeological impacts

REPORT

PRINCIPLE OF DEVELOPMENT

National Planning Policy Framework (NPPF) 2018

As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision-makers at every level should seek to approve applications for sustainable development where possible.

Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, paragraph 59 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 73 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.

In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan.

The Development Plan

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

The application site is located outside of a designated development boundary and as such is located on land designated as countryside in the Local Plan Review (2005) and the Core Strategy (2011).

Policy RLP2 of the Adopted Local Plan states that new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside these areas countryside policies will apply. Policy CS5 of the Adopted Core Strategy specifies that development outside 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.

The policies set out above seek to protect the countryside and direct new residential development to sustainable locations. The proposal in this case seeks outline planning consent to erect 23 dwelling units on land outside of a village envelope which would be a departure from the Adopted Development Plan.

5 Year Land Supply

In order to determine whether a given application for a housing scheme should be granted contrary to the provisions of the Development Plan, the Council needs to understand the current housing land supply situation.

In accordance with the PPG, the Council published the housing land supply situation in its Annual Monitoring Report dated 31 December 2017. Following best practice, the Council updated its position on the basis of completion rates in March and June 2018.

However, in July 2018, the Government published a revised NPPF. The Council is bound to take into account this revised version of national policy by s.70(2)(C) Town and Country Planning Act 1990.

By paragraph 73 NPPF, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer. 'Local housing need' is defined as the 'standard method'. The new standard methodology applies a 3 step process as follows:

- Step 1 is the calculation of housing need from the household projections – this derives a baseline target. When new projections are

published (usually every 2 years), these should be taken into account and the target recalculated. The 2016 based household projections were published on 20 September 2018;

- Step 2 is an adjustment to take account of affordability, using the most recent published local affordability ratio – this derives a target number of dwellings per annum. New affordability ratios are planned to be published every year. The most recent (2017) local affordability ratios were published in Spring 2018;
- Step 3 caps the level of any increase to 40% over the baseline target. The cap is only applicable if the target number of dwellings per annum, derived from steps 1 and 2, exceeds the baseline target + 40%.

The 5 Year Housing Land Supply target is then calculated as follows: target number of dwellings per annum x 5 years + appropriate buffer (the Council currently accepts that the appropriate buffer for the Braintree District is 20% as required by the NPPF as there has been a significant under-delivery of housing over the previous 3 years).

Since 31st March 2017 the Council has produced quarterly updates on the 5 Year Supply Assessment to assist in the consideration and determination of planning applications. To date, and based on these assessments, the Council within both Committee and Delegated reports, has acknowledged that it is unable to demonstrate a 5 year Housing Land Supply, and as such Paragraph 11 of NPPF (previously Paragraph 14 of the NPPF 2012) is engaged. However, applying paragraph 73 NPPF to its supply, the latest land supply update statement indicates a 5.83 years' supply.

That said, it is important to note that the latest update position is not an annual monitoring report, based on a comprehensive assessment of sites, in accordance with the revised definition of 'deliverable' in the NPPF. That will be done within the 2018 annual monitoring report which is due to be published on 31st December 2018.

In addition, the Council's latest 5 year supply figure of 5.83 years (as at 31st March 2018) must also be considered in the context of the emerging Publication Draft Local Plan. The Publication Draft Local Plan which currently sits with the Inspector must be able to demonstrate a 5 Year Housing Land Supply in order for it to be found sound and adopted. Unlike the current methodology for calculating 5 year supply which takes account of housing undersupply in the standard methodology formula, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years. This results in a higher 5 year supply requirement.

Whilst the presumption in paragraph 11 of the NPPF is not engaged (due to the presence of a 5 Year Housing Land Supply), until the Council has ascertained that it can demonstrate a robust supply within its annual monitoring report and given the Local Plan context described above, it is considered that only moderate weight can be attached to the policies of the

Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy). This will need to be considered as part of the overall planning balance, along with any benefits and harms identified within the detailed site assessment considered below.

SITE ASSESSMENT

Village Designation & Location

Earls Colne is classed as a Key Service Village in the Draft Local Plan. Development may be considered sustainable within a Key Service Village, subject to the specific constraints and opportunities of that village. The site allocations for Earls Colne as part of the draft New Local Plan were approved at Local Plan Sub-Committee, dates: 25 May 2016 and 28 November 2016. The following housing allocations were made for Earls Colne:

- EAR 3H – Land at Station Road (capacity 56 dwellings). Outline permission granted 26 August 2016 (15/00934/OUT).
- EARC 221 – Land off Monks Road (capacity 50 dwellings). Full permission granted 22 May 2017 (16/01475/FUL).
- EARC 225 – Land rear of Halstead Road (capacity 80 dwellings). Outline Permission granted 8 August 2017 (15/01580/OUT).

Planning application 18/00121/OUT Land West of Station Road Earls Colne was also given a resolution to grant planning permission subject to S106 at Committee in July 2018 for the erection of 90 dwellings. This has not yet been issued as S106 particulars are still being agreed. However, taking the above into account, Earls Colne has or will have planning permission for 276 houses since 2016. The significance of these permissions will be reviewed later in the report.

Site History

This site also has history at the Call for Sites stage of the emerging Local Plan. However, the site formed part of a much larger parcel of land, stretching all the way from the rear of Tey Road to the rear of Coggeshall Road. This suggested allocation 'EARC218' was not taken forward for the reasons below:

“EARC218 is located outside the development boundary to the rear of Upper Holt Street. The site contains a significant amount of tree preservation orders and adjoins the conservation area. The SA report suggested that there would be a negative effect upon Tilekiln Farm, a designated wildlife site. It is recommended that the development of the site would be considered backland development and an unwarranted encroachment into the countryside.”

The application site in this case forms a smaller part of that wider proposed allocation EARC218; it would not include any trees subject to a Tree Preservation Order, and would be approx. 190m from the Local Wildlife Site of

Tilekiln Farm at the closest point. The site in this case instead follows the natural boundary of a field hedge which abuts the south west boundary of the site, while being encompassed by existing residential development on all other boundaries. The site now measures just under 1ha in size. As such, it is considered the site is now materially different to that of the wider site previously considered. The site circumstances will be explored further in the report.

Landscape Character and Layout

The NPPF states that new development should seek to improve streetscapes and buildings to create attractive and comfortable place 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, the NPPF states that planning applications should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience (Paragraph 91).

In addition to this, Policy RLP90 of the Adopted Local Plan requires 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. Policy LPP55 of the Draft Local Plan 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 Council has adopted the Essex Design Guide as a Supplementary Planning Document. This indicates that dwellings with two bedrooms should be provided with a private rear garden of 50sq.m or more, and three bedroom dwellings should be provided with 100sq.m or more. Furthermore, Policy RLP56 of the Adopted Local Plan requires that sufficient vehicle parking should be provided for all new development in accordance with the Essex County Council Vehicle Parking Standards 2009.

Policy CS8 of the Adopted Core Strategy specifies that development must have regard to the character of the landscape and its sensitivity to change. Where development is permitted, it will need to enhance the locally distinctive character of the landscape in accordance with the Landscape Character Assessment.

This application seeks outline consent for 23 dwellings with matters of access and layout for consideration, and matters of appearance, scale and landscaping for later consideration through a reserved matters application. Landscape character, layout and wider character particulars are discussed in this section of the report.

Landscape Character

The Braintree District Settlement Fringes Evaluation of Landscape Analysis Study of Earls Colne for Braintree District Council and associated documents (2015) provides a detailed analysis of the landscape surrounding Earls and White Colne. The report indicates that the site is located within the wider Colne River Valley character area that emphasises the visual sensitivity of the valley slopes and strong historic integrity of settlements such as Earls Colne.

In terms of the characteristics of the site, it is surrounded by residential development on three sides; behind Upper Holt Street, Tey Road and parallel to Lowefields. The site is therefore contained on three sides by residential development in a back land context. The south west boundary is the only one which does not back/side onto existing residential development, and instead adjoins other paddock land and further afield Tile Kiln Farm located approx. 190m away at the closest point.

The application is supported by a Landscape Appraisal Report which attempts to assess the overall landscape impact of the development. The report provides views towards the site from a number of public vantage points; from Lowefields itself, to public rights of way on the edge of Chalkney Wood. The topography of the land slopes upwards towards Chalkney Woods and this does offer an opportunity to look back over to the houses on Tey Road and Lowefields, albeit in a marginal way. This marginal view is due to the large separation distance between the vantage point and the site before the land topography is high enough to facilitate a view across to Tey Road and Lowefields. The report concludes that the site would be seen within the backdrop of the existing settlement edge and its development would not bring about any notable landscape or visual impact implications in the wider setting.

The report also includes a copy of the Council led Earls Colne Settlement Fringes Evaluation, which sought to review landscape capacity of various sites on the fringes of the village. However, the site in this case was not included within this assessment, perhaps owing to its generally self-contained nature as discussed above. The wider countryside beyond the site however was included within this assessment, such as (4f Tile Kiln Farm) which was assessed to have an overall landscape capacity of medium-low. However, as discussed above, the circumstances pertaining to this site are materially different to the wider parcel of land (4f) which is more open and exposed.

The one area which the Landscape Appraisal Report does not cover in much depth is the views into the site from PROW 75_34 from the adjoining paddock land to the south west boundary. Officers have visited the site on numerous occasions and have walked this footpath in a westerly direction towards Coggeshall Road, looking back at the site from public vantage points. The existing vegetation on the boundary of the site is strong both in terms of depth and height, restricting views at ground level into the site. The vegetation is proposed to be retained, but is however deciduous and therefore likely facilitate more views into the site in winter months. The dwellings proposed in

close proximity to the vegetation would also likely have some visibility above the hedge.

The wider views however from public vantage points to the west even in winter months would be limited. This is because the adjoining paddock is enclosed by its own even stronger row of vegetation including a number of trees subject to a preservation order, further vegetation and back gardens of other properties on Coggeshall Road. As such, it is considered that the overall landscape impact from public vantage points in the westerly direction would be limited, and this view is shared by the Councils Landscape Officer.

In summary, taking into account all of the above landscape character analysis, Officers have concluded that the development of the site by virtue of its self-contained nature and location, could be achieved without having a detrimental impact upon the landscape or the wider character of the countryside.

Layout

The application originally sought to erect 30 dwellings on this site, at a density of approx. 30 dwellings per hectare. It was considered however that the site could not reasonably be developed for 30 dwellings without significant compromises in terms of the quality of the layout, sense of place that would be created and the amenity afforded to future occupiers. The layout was subsequently revised to 23 dwellings in an attempt to overcome these issues.

The revised layout plan shows access to the site would be taken from Lowefields, with an internal spine road running through the middle of the site to serve all dwellings; the front entrance of the site would be a type E access road with 5.5m width and 2m pavements, while further into the development this would change to a 6m shared surface. An area of open space would also be introduced at the northern tip of the site adjacent to the low key B8 storage buildings.

Plots 15-23 would appear as a continuation of linear development from Lowefields and would have a back-to-back relationship with properties on Tey Road. The layout being configured in this way would enable a continuation of the existing back-to-back settlement pattern shared between Lowefields and Tey Road. Plots 1-2 and 6-9 also all broadly reflect the linear pattern of development on Lowefields. The main difference is that on the south west side of the development, there would also be development in depth to facilitate the erection of Plots 3, 4, 5 and 10. Developing the site in depth in this way would not be in keeping with the character of the immediate surroundings of the development; however there are other examples of development in depth in the locality including Tey Road Close, Springtrees Barn, Springtrees and 24 Upper Holt Street. As such, while development in depth is not particularly characteristic of the immediate area, it would not be wholly out of keeping in the wider locality.

The development at the south western edge of the site would also leave an approx. 1.8m gap between the edge of Plots 3, 4, 5 and 10 to facilitate access

for a management company to ensure that the hedge on the western boundary to be retained remains in good order, to enable its longer term protection and enhance the overall street scene of the development. At the northern tip of the site, plots 11-14 form their own smaller cluster of development in close proximity to the open space. Plot 14 in particular would act as a terminating feature at the end of the internal spine road.

The scheme would provide 9 affordable units; 6 affordable rent and 3 shared ownership. The affordable units would be sited in three clusters; Plots 4 and 5 on the south western edge, Plots 21-16 backing onto Tey Road and Plot 11 on its own at the top of the site. Matters of scale and design are not for approval however at reserved matters stage it would be ensured that the development was tenure blind.

In terms of parking, each dwelling would have a minimum of two parking spaces in tandem; some of this would come from on-plot parking, while others would come from proposed garages which would be built in accordance with the standards of 7m by 3m to constitute as a car parking space. Some plots such as No.14 and No.10 would comprise undercroft/carport parking, although these particulars would be secured at reserved matters stage. The development does not contain any parking courts or any allocated on-street parking (other than visitor spaces). Parking for the affordable units would be the same as the market houses.

In terms of garden sizes, it is more difficult to determine the level that would be appropriate for each dwelling as matters of scale and appearance are reserved for later consideration. While the layout is for approval, the scale of dwellings might need to be reduced as shown indicatively on the site plan to a smaller number of bedrooms to reflect a smaller garden size requirement. However, all plots would provide over the minimum of 50sq.m private garden amenity space required for 2 bedroom dwellings. As such, it is considered the site could accommodate 23 dwellings all with gardens in accordance or in excess of the size standards.

As alluded to above, the size and scale of each dwelling at the site would be confirmed at reserved matters stage. Similarly, details of landscaping and boundary treatments would be secured at the reserved matters stage. It is considered these particulars could reasonably be agreed without detriment to the layout currently under consideration.

Taking into account all of the above, it is considered that the site would be able to accommodate 23 dwellings taking into account the site constraints. Moreover, the lower density of development (approx. 23 dwellings per hectare) would also be more commensurate with the pattern and density of development in the wider locality. It is therefore considered that the development would be acceptable from a layout perspective.

Heritage & Archaeology

Policy RLP100 of the Adopted Local Plan supported by Policy CS9 of the Adopted Core Strategy and Policy LPP60 of the 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.

Policy RLP95 of the Adopted Local Plan and Policy LLP56 of the of the Draft Local Plan states that the Council will preserve, and encourage the enhancement of, the character and appearance of the designated Conservation Areas and their settings, including inter alia the buildings and historic features and views into and within the constituent parts of designated areas. Proposals within/adjoining Conservation Areas will only be permitted where the proposal does not detract from the character, appearance and essential features of the Conservation Area.

The site in this case is located outside of Earls Colne Conservation Area and does not directly adjoin any listed buildings. The closest listed buildings are located approx. 50m and 130m away respectively at the closest points to the site. These buildings are already located within a residential context. Due to the above, the Historic Buildings Consultant considers that there would not be any detrimental heritage harm which would arise from the development, and as such has no objection. It is considered the proposal is acceptable in this regard.

The site also has the possibility of containing architectural remains. As such, in accordance with the recommendations of the Archaeological Officer, conditions would be attached to secure appropriate investigation and mitigation where appropriate.

Impact on Neighbour Amenity

A core principle of the National Planning Policy Framework is that 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. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.

Concerns have been raised by neighbouring residents about the possible negative effect of the development on their properties. The main aspects when considering the impact upon neighbouring properties relates to layout (siting), scale (height/bulk) and appearance (window placement). In this case, layout is the only thing that is submitted for consideration, with the other elements reserved for future consideration. As such, the required assessment

at this stage is whether the layout of the development in itself would cause possible detrimental harm to neighbouring properties.

In this respect, reviewing the proposed layout, it is considered that each of the proposed dwellings would be of a sufficient distance away from neighbouring properties to not cause detrimental harm subject to the detailed appearance and scale of each proposed dwelling being appropriate. This will be an important material consideration at reserved matters stage to ensure the development does not have a detrimental impact upon neighbouring properties by virtue of loss of natural light, overlooking, overshadowing or overbearing.

A large number of concerns were also raised in respect of construction activities at the site, including possible road closures for infrastructure and movements of heavy goods vehicles. Construction activity however is a temporary disturbance that is associated with any development. The Local Planning Authority cannot reasonably refuse an application because construction works may temporarily disturb neighbouring properties/commercial premises. A condition would however be imposed to ensure that construction works would not occur outside of unreasonable hours. Any damage caused by construction vehicles would be a civil matter and not something that the Local Planning Authority can control by way of condition. Any necessary road closures will be dealt with in an appropriate way by the Highways Authority.

Highway Issues

The proposed access is a matter for approval at the outline application stage. It is proposed that the site will utilise an existing field access from Lowefields for vehicle and pedestrian traffic. No new access would be created; however future occupiers of this development would have to traverse a number of other local roads before being able to enter the site.

The need to traverse other roads has brought about a large number of objections both from the Parish Council and residents. The main area for concern is the adequacy of the Tey Road junction with the A1124 and the increase in traffic that would result from the development utilising this junction. The concern also arises from the lack of footpath in close proximity to the junction on Tey Road in relation to pedestrian safety.

The Transport Statement submitted with the application considered the impacts of the development on the highway network for 30 dwellings. The conclusion was that the junction of Tey Road and the A1124 would operate well within capacity as existing and with the development proposed given the small number of vehicle movements that would be generated from the development (approximately 15 vehicles AM/PM at peak periods). No revised transport statement was submitted with the application, however the number of dwellings have been reduced by 7, which would consequently have a knock-on effect of lowering the overall number of vehicle movements at peak

periods. As such, it is considered the proposal for 23 dwellings would not affect or change the previous conclusions of the Transport Statement.

Residents however disagreed with the findings of the applicants Transport Statement and subsequently submitted their own Transport Statement completed by Ardent Consulting Engineers, for the consideration of the Council and Essex Highways. The report focused on the junction of Tey Road and the A1124. The Ardent report stated that the junction has inadequate visibility to be operated safely by road users, but acknowledges the lack of accidents recorded at the site. The report concludes that the increase in traffic, from not just this development but others, would increase the risk of accidents at this junction.

Essex Highways reviewed both the applicants Transport Statement and the Ardent Transport Statement. Essex Highways noted the findings of the Ardent report, but stated that they base their recommendation on the information submitted as well as their own information and knowledge of the highway network. In this case, Essex Highways acknowledge that the layout of the A1124/Tey Road junction is unconventional, but highlight that there is no accident record. Furthermore, Essex Highways consider that this unconventional junction is likely to make drivers more cautious when entering/exiting it, taking into account the accident record. In addition, Essex Highways consider that the development proposed would be modest in scale, and consider that its impact would not be severe, with only a modest increase in traffic from 23 dwellings. As such, Essex Highways have not objected to the application, and instead have recommended approval, subject a number of conditions / improvements to the local highway network to be agreed through a Section106 agreement.

Officers have visited the site on numerous occasions and acknowledge that the junction is unconventional in its layout. However, Essex Highways are the statutory consultee in all matters relating to new developments of this scale. Their recommendations hold significant weight in the determination of a planning application. As such, while concerns of neighbouring residents are noted, it is considered that in the absence of a highways objection, and given the relative small scale of development proposed, that the development of the site would not have a detrimental impact on the road network or pedestrian safety. Furthermore, the access from the site from Lowefields is also considered to be acceptable by Essex Highways subject to conditions. The development is therefore acceptable from a highways perspective.

Ecology & Trees

Policy CS8 of the Adopted Core Strategy specifies that development must have regard to the character of the landscape and its sensitivity to change. Where development is permitted, it will need to enhance the locally distinctive character of the landscape in accordance with the Landscape Character Assessment.

Policy RLP84 of the Adopted Local Plan 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 Policy LPP68 of the Draft Local Plan.

Matters of landscape are reserved for later consideration. However, as set out in the submitted Arboriculture Impact Assessment, there are a number of trees and hedgerows on the site that are proposed to be retained and cut back where necessary. Some low value vegetation is also proposed to be removed on other site boundaries.

The Council's Landscape Officer initially raised a concern about the management of the western boundary hedge and the onus of responsibility this would place on future residents of the development. If left unchecked, the hedge could become overgrown and cause wider issues that will lead to a pressure to remove it. It was subsequently suggested that a gap be incorporated to allow for management of the hedge. As such, and as set out in the layout section, an approximately 1.8m gap was included within the revised plans between Plots 4,5 and 10 to enable the existing hedgerow on the western boundary to be retained and managed by a management company.

The landscape officer also raised some concerns about the tree work proposed to other areas of the site, although set out these particulars could reasonably be controlled at reserved matters stage and through planning conditions. The Council's Landscape Officer therefore had no objection to the development.

In terms of ecology, an Extended Phase 1 Habitat Survey (Preliminary Ecological Appraisal- t4 Ecology Ltd, June 2017) has been submitted with this application. The report has been prepared by a suitably qualified ecologist. The report highlights that there was not a presence of any identified protected species at the site, although the report recommends that the hedge boundary to the west be retained. The report finds it unlikely that great crested newts or reptile species would be adversely affected by the development proposals given the land use, management and associated absence of potentially suitable habitat. The report recommends that no further surveys are required. The Council's Ecology Officer reviewed this survey and had no objection to the development.

Residents in their representations set out that where the site has recently been left unmanaged, more wildlife has been using the site, thus suggesting further surveys are required. However, if the development is approved, it would be accompanied by a number of conditions to protect bats or any other protected species, and some of this is also covered by separate legislation. As such, while the site may have been left more unmanaged within the past year,

it is considered that this does not justify the need for further surveys to be carried out at the site.

Taking all of the above into account, it is considered that the development is acceptable from a landscape and ecology perspective subject to appropriate conditions.

SUDS, Sewerage and Drainage

Policy RLP69 of the Adopted Local Plan and Policy LPP78 of the Draft Local Plan states that where appropriate, the District Council will require developers to use Sustainable Drainage techniques such as porous paving surfaces.

Government Policy as set out in Para.163 of the NPPF strongly encourages a sustainable drainage system (SuDs) approach to achieve these objectives. SuDs offer significant advantages over conventional piped drainage systems in reducing flood risk by reducing the quantity of surface water run-off from a site and the speed at which it reaches water courses, promoting groundwater recharge, and improving water quality and amenity.

The site is located in Flood Zone 1 and is not at risk from other flooding sources such as surface water flows (pluvial), groundwater, tidal and artificial. The application was supported by a flood risk and surface water drainage strategy document. The document shows that the surface water generated at the site would be directed to a detention basin towards the top of the site, which would act as the small area of amenity space for the development. It is set out that permeable paving can be provided for private driveways, accesses and car parking. The report also sets out that this surface water would discharge from the basin and be directed into a new sewer which would run beneath the driveway between Springtrees and Russetdene onto Tey Road before running north along Tey Road and connecting into the 300mm public surface water sewer at Manhole 4753.

Essex Sustainable Urban Drainage team have considered the submitted flood risk and surface water assessment and have no objections to the development, subject to a number of conditions. In addition, Anglian Water also have no objection to the development, stating that the Earls Colne Water Recycling Centre will have available capacity for these flows. Initially Anglian Water raised concerns with the submitted surface water strategy/flood risk assessment, however these issues were resolved during the course of the application.

Lighting

Policy RLP65 of the Adopted Local Plan states that proposals for external lighting which require planning permission will only be permitted if the lighting is designed as an integral element of the development; low energy lighting is used; the alignment of lamps and provision of shielding minimises spillage and glow, including into the night sky; the lighting intensity is no greater than necessary to provide adequate illumination; and there is no significant loss of

privacy or amenity to nearby residential properties and no danger to pedestrians and road users and there is no unacceptable harm to natural ecosystems.

No details of lighting have been submitted to supplement the application. These details will however be secured via condition. Notwithstanding the above, the site is located in an existing area that has existing illumination measures in place, and as such is not located in a sensitive location to lighting. As such, subject to an appropriate lighting scheme being secured via condition, it is considered there would not be a detrimental impact on the area by any future proposed lighting on the scheme. Lighting controls would also extend to protecting biodiversity in the area.

SECTION 106

Paragraph 96 of the NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative and qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreation provision is required.

Policies CS10 and CS11 of the Adopted Core Strategy indicates that a financial contribution will be required to ensure that infrastructure services and facilities required to provide for the future needs of the community including, inter alia, open space, sport and recreation provision are delivered.

Open Space in Braintree District is calculated in accordance with the Open Spaces SPD. The exact amount depends on what is being provided at the site. Due to the scale of this development, there would not be a requirement for provision for equipped play, sports or allotments on the site, but instead these aspects could be secured via financial contribution to identified schemes in Earls Colne. There would be a small area of open space provided at the north of the site. The calculation of the total Open Space contribution required would come via condition prior to the commencement of development, as details have yet to be provided in respect of bedroom numbers.

In addition, it is proposed that the maintenance of this space along with other areas of the public realm would be maintained by a management company. This would be secured through the Section 106 Agreement.

The Section 106 agreement will also include securing 40% affordable housing on the site (which would equate to 9 units) in a 70% - 30% split of Affordable Rent and Shared Ownership respectively in accordance with the Councils standards and policies. The S106 Agreement would also include works to the access from Leyfields, and works to improve the surface of the Public Right of

Way between the site access and Tey Road. The exact method of how the PROW will be improved is currently being discussed with Essex Public Right of Way. Finally, the S106 Agreement would require financial contributions to Primary Education and a Secondary School Transport contribution. These figures are anticipated to be in the region of 87,865 and £15,950.50 respectively although the actual level of contribution will be determined by the number of qualifying dwellings.

PLANNING BALANCE & CONCLUSION

As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located outside of a designated village envelope/town development boundary and is therefore located within the countryside, where new development is 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. There is therefore a presumption that the application should be refused unless there are material reasons to grant planning permission.

Although the Council can currently demonstrate a 5 Year Housing Land Supply (5.83 years as at 31st March 2018), this latest update position, as identified above, is not an annual monitoring report based on a comprehensive assessment of sites in accordance with the revised definition of 'deliverable' in the NPPF. Therefore the current position of 5.83 years does not represent a robust housing supply position. In addition, and as highlighted above, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years, which will on adoption of the Local Plan, result in a higher 5 Year Housing Land Supply requirement.

The Government's policy objective of significantly boosting the supply of homes as highlighted in Paragraph 59 of the NPPF is an important material consideration in this case, however this in itself is not considered to be sufficient to outweigh the conflict with the Adopted Development Plan as identified above. In contrast, the above factors which affect the robustness of the Council's current 5 Year Housing Land Supply, are also considered to be important material considerations, which in Officers view, justify attributing only moderate weight to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy).

As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives): an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and

coordinating the provision of infrastructure); a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

In terms of the economic and social objectives, the development of the site for 23 units would contribute towards the Districts 5 year housing supply, while also providing 9 new affordable units. There would also be jobs provided during the construction stage and once occupied, future occupiers would contribute to the vitality of the village. The development of the site would also secure financial contributions to mitigate the impact upon services and open space within the area and would be secured through a Section 106 agreement. Similarly, the development would look to improve part of the local PROW network for the benefit of all residents in the locality. As such, it is considered there are numerous economic and social benefits that would arise from the development that can be afforded moderate weight.

In terms of the environmental objective, although the site is located outside of defined settlement limits it is not in an isolated location, but located in one of the more accessible locations in the district in a key service village with good access services and amenities to meet the future needs of occupiers. In addition, due to the self-contained nature and size of the site, its development for 23 houses could be reasonably accommodated with sufficient parking and garden space, while not having a detrimental impact upon the character of the area or wider landscape. Furthermore, while it is acknowledged that the Tey Road / A1124 junction is unconventional in its layout, the development of this site would not lead to an unacceptable level of traffic utilising the junction. Moreover, the site can achieve safe pedestrian and vehicular access from Lowefields. The development would also retain existing trees/hedging worthy of retention, wouldn't significantly impact upon local wildlife and wouldn't have a detrimental impact upon heritage assets. The site could also reasonably be developed without detriment to neighbouring properties, although these particulars would be secured at reserved matters stage. As such, it is considered that there would be minimal environmental harm connected with the development.

When considering the planning balance and having regard to the benefits as identified above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of this proposal outweigh the moderate weight afforded to the conflict with the Development Plan. The proposed development would constitute sustainable development and it is therefore recommended that planning permission is granted.

Section 106 Heads of Terms

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

- **Affordable Housing:** 9 units comprising tenure of 6 x Affordable Rent & 3 Shared Ownership. Trigger: not to permit the Occupation of more than 50% of the Market Dwellings until such time as all of the Affordable Housing Dwellings to be provided
- **Public Open Space:** Financial contribution toward public open space provision, including equipped play, allotments and sports to be allocated to identified project(s) contained within the Open Spaces Area Action Plan or in consultation with the Parish Council. Exact figures to be confirmed at reserved matters stage. A management company be appointed for the maintenance of the proposed open space at the site.
- **Highways:** Highways works to include; access to the site, and works to improve the surface of the Public Right of Way between the site access and Tey Road.
- **Education:** Financial contributions for primary education and secondary school transport, amount to be calculated in accordance with standard ECC contribution formula (For members information – ECC Education have indicated that if 23 qualifying dwellings are built, then the financial contributions would be £87,865 for primary education and £15,950.50 for secondary school transport contribution. The actual level of contribution will be determined by the number of qualifying dwellings).

The Development Manager be authorised to GRANT 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 his delegated authority to refuse the application.

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: NC_17.333-P-202

Proposed Site Plan

Plan Ref: 17.333-P-205

Version: a

1 Details of the:-

- (a) scale
- (b) appearance of the building(s);
- (c) 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 1 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).

- 2 The landscaping scheme required by Condition 1 of this permission shall provide for the retention of an existing boundary tree/hedging (except as required to provide the proposed access) and shall incorporate a detailed specification of hard and soft landscaping works. This shall include plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage, signs and lighting.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development.

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier.

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.

Reason

Landscape planting will add character to the development and it is considered desirable for these to be dealt with concurrently with the other details.

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

Reason

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

- 4 No above ground development shall commence unless and until 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 screen walls/fences. The gates/fences/walls as approved shall be provided prior to the occupation of any dwelling hereby approved and shall be permanently retained as such.

Reason

In order to secure the satisfactory development of the site and in the interests of visual amenity.

- 5 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.

- 6 Development shall not be commenced until an investigation and risk assessment, has 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 by the Local Planning Authority. The investigation and risk assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and 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 the following:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - o human health,
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o adjoining land,
 - o groundwaters and surface waters,
 - o ecological systems,
 - o archaeological sites and ancient monuments;
- (iii) A remediation strategy (if required). The approved remediation strategy 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 the satisfactory drainage of surface water in the interests of sustainability. This matter must be dealt with prior to commencement of development as it will include works that need to be undertaken prior and during construction.

- 7 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.

- 8 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 in consultation with the Head of Environmental Services 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.

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

- 10 No development shall commence unless and 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;

-The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

-Wheel washing facilities;

-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 and construction working hours.

- a method statement for badger/small mammal protection during construction

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.

- 11 No development shall commence unless and until a detailed surface water drainage scheme/strategy 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 the Greenfield 1 in 1 for all storm events up to an including the 1 in 100 year rate plus 40% allowance for climate change.

-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.

- Further investigation with regards to the potential to discharge to the adjoining ditch network.
- 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.
- Where discharge is to a Surface water sewer, permission in principle should be provided from the relevant water company.
- 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.
- 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.

- 12 No development shall commence unless and 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 development shall only be carried out in accordance with the approved details.

Reason

The National Planning Policy Framework states that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

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.

- 13 No development shall commence unless and 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 approved, 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.

- 14 No development shall commence unless and 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 approved foul water 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.

- 15 No development shall commence unless and until details of the proposed ecological enhancement of the site are submitted to and approved in writing by the Local Planning Authority. It should include new habitat creation, particularly the proposed SUDs scheme which should be enhanced for biodiversity through wildflower planting/seeding of the attenuation basin. It must detail the proposed habitat improvement/retention on the site particularly of the trees and hedgerows for wildlife corridors (including treatment of gaps in hedging to allow continuous foraging commuting routes for bats and badgers and provision of dark areas). Specification of the design, type and location of bird nesting and bat roosting boxes which where appropriate should be

integrated into the building design and should include integrated swift bricks/boxes. Hedgehog friendly fencing installation should also be implemented to allow movement between foraging habitats.

Reason

This information is needed prior to commencement of the development, in the interests of habitat and species protection and achieving enhanced biodiversity through a range of measures.

- 16 No development shall commence unless and until a landscape and ecological management plan (LEMP) has been submitted to and be approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed
 - b) Ecological trends and constraints on site that might influence management
 - c) Aims and objectives of management
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions
 - f) Preparation of a work schedule(including an annual work plan capable of being rolled forward over a 5 year period)
 - g) Details of the body or organization responsible for implementation of the plan
 - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason

This information is required prior to commencement of development to ensure the protection, through long term management, of ecological features and protected/priority species.

- 17 Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport. These packs will include information about local services and transport alternatives for future residence of the site.

Reason

In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies

February 2011.

- 18 No development or preliminary groundworks shall commence unless and 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. A mitigation strategy detailing the excavation/preservation strategy shall be submitted to the local planning authority following the completion of this work.

Reason

This information is required prior to the commencement of development as the site is considered to be of potential archaeological importance, as such any investigative works would need to be completed prior to the commencement of development as not to disturb any potential archaeological remains.

- 19 No above ground development shall commence unless and until the following (including an implementation timetable) has been submitted to and approved in writing by the Local Planning Authority:

(a) details of the location and design of refuse bin and recycling materials storage areas (for internal and external separation) and collection points,

(b) details of any proposed external lighting to the site including a strategy to protect bats

The development shall be constructed in accordance with the approved details/specification and thereafter so retained.

Reason

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

- 20 Car parking provision across the development shall be provided in accordance with the minimum standards set out in the Essex Parking Standards Design and Good Practice 2009 which requires the following parking provision for Use Class C3 Dwellinghouses:

- a minimum of 1 car parking space per 1 bedroom dwelling;
- a minimum of 2 car parking spaces per 2 or more bedroom dwelling;
- a minimum of 0.25 visitor car parking spaces per dwelling (unallocated and rounded up to the nearest whole number) and
- standards exclude garages if less than 7 metres x 3 metres internal dimension.

Reason

To ensure adequate off-street parking space is provided.

21 Rear garden amenity space across the development shall be provided in accordance with the minimum standards set out in the Essex Design Guide (2005) which requires the following garden sizes for dwellinghouses:

- a minimum of 25sq.m per flat
- a minimum of 50sq.m for 1-2 bedroom dwellings
- a minimum of 100sq.m for 3+ bedroom dwellings

Reason

To ensure future occupiers of the development can enjoy sufficient levels of amenity.

22 The submission of reserved matters applications pursuant to this outline planning permission shall together provide for no more than 23 dwellings, parking, landscaping and associated infrastructure and demonstrate compliance with the approved plans listed above.

Reason

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

INFORMATION TO APPLICANT

1 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.

o Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

o 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.

o 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.

o The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.

o SUDS advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage

of the planning process and granted planning permission based on historic requirements.

2 Lighting for Bats - i. the developer should identify areas/features on the site that are sensitive for all bat species on site, and that are likely to cause disturbance in or around the breeding sites, and resting places or along important territory routes used to access key areas of their territory, for example foraging; and

ii. Show how and where the external lighting will be installed so that it can be clearly demonstrated that areas lit will not disturb or prevent bats using their territory or having access to their breeding sites or resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

3 The badger protection shall include

a) Creation of sloping escape ramps, which may be achieved by edge profiling of trenches /excavations or by using planks placed into them at the end of each working day; and

b) Open pipework greater than 150mm outside diameter being blanked off at the end of each working day.

4 To avoid disturbance to nesting birds vegetation removal 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. (This should include ground nesting birds and on/in buildings also).

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.

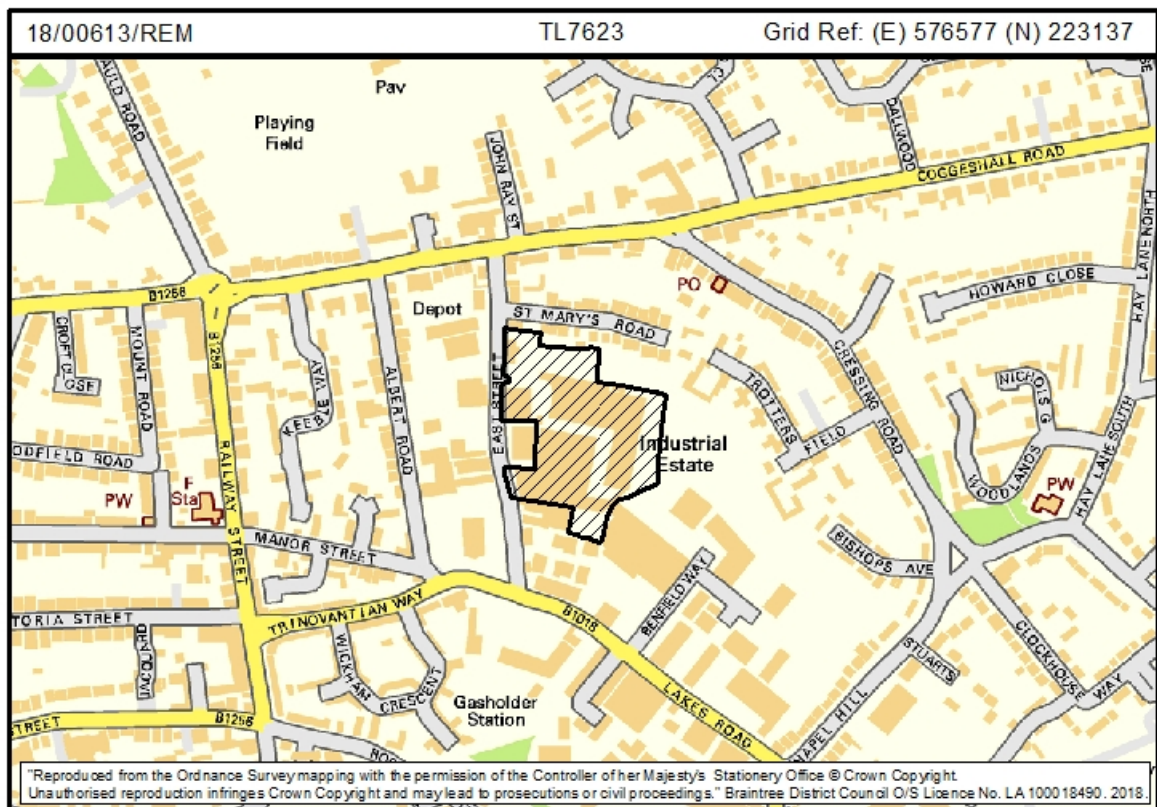
5 It has been reported that the majority of the site currently has no suitable habitat for reptiles due to it being mown and grazed. Therefore a mowing regime of the development area must be maintained prior to construction commencing to ensure it does not become overgrown/neglected and provide a potential attractive habitat for reptiles.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

PART A

APPLICATION NO: 18/00613/REM
 DATE VALID: 22.03.18
 APPLICANT: Myriad Housing Ltd
 C/o Agent
 AGENT: Ingleton Wood
 Mrs Rebecca Howard, 874 The Crescent, Colchester Business Park, Colchester, Essex, CO4 9YQ
 DESCRIPTION: Application for approval of Reserved Matters for 'Access', 'Appearance', 'Landscaping', 'Layout', and 'Scale' for erection of 74 dwellings pursuant to outline planning permission 15/01366/OUT (Development of up to 74 dwellings with all matters reserved) and confirmation of compliance with conditions 1, 2, 3, 5 and 30 as stated on the decision notice for 17/02045/VAR.
 LOCATION: Carier Business Park, East Street, Braintree, 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

14/00144/FUL	Demolition of existing Carier Business Park warehouse (Unit 5) and existing two storey attached office. Installation of new handrails to raised area and new cladding to newly exposed flank wall of neighbouring industrial unit. Installation of new palisade fencing to front of site to match existing boundary treatments.	Granted	28.03.14
14/00079/NMA	Application for non-material amendment of planning application 14/00144/FUL - Demolition of existing Carier Business Park warehouse (Unit 5) and existing two storey attached office. Installation of new handrails to raised area and new cladding to newly exposed flank wall of neighbouring industrial unit. Installation of new palisade fencing to front of site to match existing boundary treatments.	Granted	08.01.15
15/01366/OUT	Redevelopment of site to involve the demolition of all existing buildings and erection of up to 74 dwellings, of which 30% will be affordable, erection of pump station and associated access arrangements from East Street	Granted with S106 Agreement	10.07.17
17/02045/VAR	Application for variation of Conditions 1, 6, 7, 8, 9, 10, 11, 12, 13 and 15 of approved application 15/01366/OUT - To include wording that states "prior to the commencement of development, with the exception of any works of	Granted with S106 Agreement	23.02.18

17/02046/DAC	<p>demolition" to allow for demolition before approval of reserved matters.</p> <p>Application for part approval of details reserved by condition nos. 6 and 7 of approved application 15/01366/OUT</p>	Granted	06.06.18
18/00756/DAC	<p>Application for approval of details reserved by condition nos. 8, 9, 10, 11, 12, 15, 23, 24 and 25 of approved application 17/02045/VAR.</p>	Pending Consideration	
18/01148/VAR	<p>Application for a variation of Conditions 4 and 26 of planning permission 17/02045/VAR - Condition 4 (access) Prior to the occupation of the development the main vehicular access shall be implemented in accordance with the details to be approved at Reserved Matters.</p> <p>Condition 26 (car parking) Car parking provision across the development shall meet the following requirements: A minimum of 1 car parking space per 1 bedroom dwelling. A minimum of 2 car parking space per 2 or more bedroom dwelling. Standards exclude garages if less than 7 metres x 3 metres internal dimension.</p>	Pending Decision	

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 Publication 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 joint North Essex-Authorities (NEAs) have received a post hearing letter dated 8th June 2018. This letter outlined a number of short comings about the Garden Communities in the Section 1 Plan relating to transport infrastructure, employment, viability, and the sustainability appraisal.

The letter has outlined 3 options for how to proceed with the Section 1 Publication Draft Local Plan.

- Option 1 – Remove the Garden Communities proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time.
- Option 2 – The NEAs carry out further work on evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2 examinations. This option would result in the suspension of the examination, and the part 2 examination could not take place.
- Option 3 – Withdraw Section 1 and Section 2 of the Plans from examination and to resubmit them with any necessary revisions, after carrying out required further work on the evidence base and Sustainability Appraisal, and the relevant consultation and other procedures required by legislation.

A further Supplementary Post-hearing letter dated 27th June has also been received. This letter provided the Inspectors views on policy SP3 of the Section 1 Plan which covers housing requirements. The letter concludes that the housing requirement figures for each of the NEAs set out in policy SP3 is its respective objectively-assessed housing need, which for Braintree is 716 dwellings per annum.

The North Essex Authorities have agreed to produce further evidence to present to the Planning Inspector on the section 1 Local Plan. The authorities will need to agree with the Planning Inspector a timetable for the completion of this work, but this will result in a delay to the adoption of the Local Plan.

In accordance with paragraph 48 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 48 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
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
RLP27	Location of Employment Land
RLP33	Employment Policy Areas
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
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
CS4	Provision of Employment
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
SP4	Providing for Employment and Retail
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
LPP2	Location of Employment Land
LPP3	Employment Policy Areas
LPP33	Affordable Housing
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic 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
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
LPP75	Energy Efficiency
LPP77	Renewable Energy within New Developments
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting

Supplementary Planning Guidance

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

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.

SITE DESCRIPTION

The application site is located within the Town Development Boundary of Braintree. It measures approximately 2.1 hectares and fronts onto East Street, from which vehicular access is currently taken. The current boundary treatment to East Street consists of a 1.8m palisade fence.

The site is bounded to the north by existing residential dwellings located on St Marys Road, to the south by industrial/commercial buildings and to the east partly by industrial/commercial buildings and partly by an area of informal public amenity space.

The site was previously occupied in an Industrial/Commercial capacity and contained a large area of concrete hardstanding where previous industrial buildings have been demolished, in addition to a number of remaining industrial units with associated hardstand and parking. At the northern end of the site there was also a terrace of units (92 to 102 East Street) which were also in commercial use but were of a significantly smaller scale and of a more residential appearance.

The site has subsequently been cleared in readiness for its re-development.

PROPOSAL

Outline planning permission (15/01366/OUT) was granted on 10th July 2017 for the re-development of the site with the erection of up to 74 dwellings, the erection of a pump station and associated access arrangements from East Street. All matters were reserved, meaning that the detailed access; appearance; landscaping; layout and scale of the proposed development must be considered at the Reserved Matters stage. A subsequent variation (17/02045/VAR) of this permission was issued on 23 February 2018 to allow the site to be cleared without triggering pre-commencement planning conditions. A final variation (18/01148/VAR) varies the above permission to remove the emergency access as it is not required and to allow a degree of flexibility with the number of visitor car parking spaces to be provided on the site.

The current Reserved Matters application seeks permission for all the matters reserved at the outline permission stage. The applicant also seeks confirmation that the following conditions attached to the outline planning permission have been complied with:

Condition 1 – scale; appearance; layout; access and landscaping.

Condition 2 – reserved matters submission to include no more than 74 dwellings.

Condition 3 – finished floor levels shall be provided.

Condition 5 – full access details must be submitted.

Condition 30 – full landscape scheme details must be submitted.

The proposed development would consist of 74 dwellings with a single primary vehicular access being taken from East Street. An area of public open space would be located at the southern end of the site and a shared surface road would provide a circular route around the site interior, serving the main development blocks.

The proposed dwellings would be a mixture of detached, semi-detached; terraced and flatted units.

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

- Planning Statement
- Affordable Housing Statement
- Flood Risk Assessment and Drainage Strategy
- Landscape Management and Maintenance Plan
- Design and Access Statement
- Viability Assessment
- Remediation Method Statement

- Full set of drawings

CONSULTATIONS

BDC Waste

No objection and no comments to make.

BDC Ecology

Details of proposed ecological enhancement (integrated bird nesting and bat roost boxes/bricks) must be submitted to the LPA for consideration prior to occupation of the development under Condition 31.

Environmental Health

Satisfied with the submitted remediation statement which is required under Condition 8 (b) of the outline permission. Await the final validation report in order for Condition 8 to be fully discharged.

Essex Police

“Adopted BDC Policy RPL90 (viii) states - Designs and layouts shall promote a safe and secure environment, crime reduction and prevention and shall encourage the related objective of enhancing personal safety.

We note that the design features a footpath to the south giving access to an enclosed part of the development. The Secured by Design Homes Guide 2016 (8.4 - 8.5) warns regarding a "leaky Cul de sac". Care will need to be taken with the boundary treatments to plot 54 as in the past properties abutting such footpaths have been subject to crime and ASB”.

(NB: The layout has since been revised to remove this footpath).

“We would welcome the opportunity to consult on this development to assist the developer with their obligation under this policy and to assist with compliance of Approved Document "Q" at the same time as achieving a Secured by Design award”.

Natural England

No comment.

Anglian Water

No objection. Impacts upon the public foul sewerage network are acceptable to Anglian Water at this stage. Request that we are consulted on any forthcoming application to discharge Condition 15 of the outline planning application, to which this Reserved Matters application relates, that requires the submission and approval of detailed foul drainage information.

We have reviewed the applicant's submitted surface water drainage information (Flood Risk Assessment/Drainage Strategy) and consider that the impacts on Anglian Water's public surface water sewerage network are acceptable and have been adequately addressed at this stage.

We request that we are consulted on any forthcoming application to discharge Conditions 11/12 of the outline planning application to which this Reserved Matters application relates, that require the submission and approval of detailed surface water drainage information.

ECC Flood and Water Management

Cannot advise full discharge of Conditions 11 and 12 due to insufficient information being provided at this stage. Further Drainage Strategy details will be required before these conditions can be discharged.

BDC Housing Research and Development

In accordance with Policy CS2 of the adopted Core Strategy the proposal for up to 74 residential dwellings requires 30% of the dwellings to be for affordable housing which equates to 22 homes.

Early in the planning process an affordable unit and tenure mix was agreed with the applicant as being appropriate to address housing need. This is set out in the table below and confirmed in the submitted Affordable Planning Statement and illustrated on site layout drawing EASTST-1W-XX-XXDR-A-2067 revision P21.

Type	No.	Rented	S/O
1 Bed 2 person flat	4	4	0
2 Bed 4 person house	14	9	5
3 Bed 5 person house	4	2	2
Total	22	15	7
		22	

We are fully supportive of this application as it has potential to deliver a significant number of much needed affordable homes in Braintree.

ECC Highways

Following submission of the application the applicant subsequently revised the scheme to respond to concerns raised by Essex County Highways in relation to visibility splays for proposed driveways which exited onto East Street. The formal consultation response from Essex County Highways is still pending at the time of writing however Officers understand that there is no objection to the revised scheme and that the formal final consultation response will be issued in advance of the Planning Committee meeting.

BDC Landscape

BDC landscape originally raised concerns due to the poor quality of the original layout in relation to the area of open space located at the southern periphery of the site. The applicant has since worked to resolve this; re-locating the pumping station to the rear of the open space so that it does not create a hidden area behind it and re-designing the open space landscaping with the aim of creating a usable space with a clear purpose. Further work is still required on the final landscape design and layout of this area and a condition is required to cover this.

Representations

Three consultations were carried out. The original application consultation was followed by a re-consultation to those who had made representations on the original scheme following revisions to the layout and a further re-consultation based on the amended driveway/access arrangements.

At the time of writing 4 letters of objection were received. Two were from local residents; one was from The Archer Community Trust and one from a third local resident which included a petition of 33 signatures.

These representations are summarised below.

- Parking concerns – parking already very limited along East Street for existing residents (including those with a disability or young children), especially those without driveways who must compete with local businesses. Development will worsen this situation.
- Local businesses rely on this parking which will be lost.
- Encroachment onto existing public highway needs investigating.
- Concerns over poor existing highway on East Street including pavement is not fit for purpose and is frequently driven over to detriment of pedestrian safety.
- Historic garden grabbing from dwellings along St Mary's Road.
- Negative impact (noise and disturbance) on new properties from existing adjacent industrial units.
- Negative impact upon existing local residents in terms of increased traffic; housing; overlooking and general disturbance.
- New dwelling design will be out of keeping with existing dwellings in locality.
- Planning permission for The Archer Road Community Centre was given with the provision that encouragement was to be made for hirers to access it by public transport.
- East Street currently struggles to accommodate the volume of visitors and traffic (facts that already affect residents) while upholding the safety of pedestrians, this will worsen with any development and public safety will be put at risk.

- 33 signature petition was submitted against the scheme as unwanted development on East Street.

Councillor Hensman - Objection

- Options other than housing should be considered.
- Over-development of the site is at the expense of garden grabbing from adjacent residents. Land should be returned to residents.
- Unacceptable impact on amenity of these adjacent residents.
- View of Town Hall Clock or St Michaels Church will be lost.
- Development will be out of keeping with the area.
- Detrimental impact from adjacent commercial premises. One of these has another UK branch where a similar thing happened and there is a noise nuisance for new residents.
- Adopted Policy RLP33 remains in force. BDC should support local business and this land is allocated for Industrial purposes. Land could provide a car park for businesses by day and residents by night.
- East Street should be widened where previous encroachments have occurred.
- Will set precedent for change from Industrial to residential land.
- Adverse impact on highway safety in East Street. Existing heavy vehicles delivering to East Street businesses cause blockages.
- East Street already used as free parking for Rail Station and as a rat run to avoid Galleys Corner. Suggested mitigation is to introduce parking restrictions but this leaves existing residents and businesses without parking.
- Residents are actively looking to be involved to changes in their area and should be given the opportunity to see face to face what a developer is proposing for a scheme of this size.

REPORT

Site Assessment

Principle of Development

The principle of development has been established under the original outline consent 15/01366/OUT which was issued on 10 July 2017 (and the subsequent variations of this outline consent). The current application seeks approval only for the reserved matters pursuant to the outline consent.

In terms of the background to the outline consent, the majority of the site is designated as an Employment Policy Area in the adopted Local Plan where only B1 (Business); B2 (General Industry) and B8 (Storage and Distribution) uses are permitted. This allocation is not proposed to be taken forward into the new Local Plan and the site has a draft allocation for residential development. The outline application to re-develop the site in a residential capacity was therefore a departure from the adopted Development Plan but was in accordance with the draft allocation in the emerging Local Plan.

The applicant submitted a Viability Assessment in support of their outline application which demonstrated that the re-development of the site for an employment use was not viable. This Report was independently assessed by the Council's own viability consultant who was in agreement with the report's findings. Officers therefore considered that the proposal for residential re-development was acceptable and the Planning Committee were in agreement with this recommendation.

With the principle of development already being established the current Reserved Matters application seeks approval only for the following detailed matters:

- access;
- appearance;
- landscaping;
- layout; and
- scale.

Design, Appearance and Layout

Both Policy RLP90 of the adopted Local Plan and Policy LPP55 of the Draft Local Plan require a high standard of design and layout in all developments. Policy CS9 of the Adopted 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 124) that 'good design is a key aspect of sustainable development' and that (para 127) 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 and effective landscaping'.

The applicant proposes a 74 unit scheme. The design and layout has been revised during the course of the application to respond to Officer concerns, particularly in relation to the position of the pumping station in relation to the adjacent area of open space.

The proposed scheme would create an active frontage to East Street with dwellings either fronting toward the highway or providing an active side elevation with ample space for substantial soft landscaping to visually soften the street scene.

Within the site a shared surface access road would provide a broadly circular route around a central development block. Again dwelling front curtilages would provide an element of soft landscaping and parking would primarily be on plot. There is one flatted block (Plot 17) which includes private amenity space to its rear; a small adjacent parking court and a bike/bin store.

An emergency access was originally proposed adjacent to Plot 74. This has been removed from the scheme as it is not a technical requirement and was

objectionable from the crime and security viewpoint, as raised by Essex Police.

The development is largely compliant with the Essex Design Guide in terms of garden sizes for the proposed houses with a minority of units being slightly under the required standards but many more being over, sometimes markedly. Essex Design Guide back to back distances between new dwellings are also largely complied with. Where there is a shortfall (of 20m rather than 25m) Officers do not consider that it is so significant as to justify a refusal of planning permission, given that the relationship is between new dwellings and not new to existing dwellings.

Overall, the layout is considered to be compact but acceptable and appropriate for a brownfield site within the District's main town.

In terms of design, the applicant proposes a mix of 52 market and 22 affordable dwellings (74 total) which would be split as follows:

4 no. 1 bed flats
45 no. 2 bed houses
25 no. 3 bed houses

The overall design of all units would be traditional (2 storey) in form but with more contemporary elevations. The palate of materials would include facing brick with elements of render and/or cladding to add visual interest. Pitched roof entrance canopies are proposed on the houses and Juliet style glass balconies would add visual interest to selected elevations.

The Council's Affordable Housing Officer has confirmed that the proposed affordable mix is in accordance with that agreed with the applicant during the planning application process and is supportive of the proposal stating:

We are fully supportive of this application as it has potential to deliver a significant number of much needed affordable homes in Braintree.

The applicant has also submitted a Viability Report in support of their application. This does not seek to justify the under provision of affordable housing (the scheme is policy compliant) but relates to the Nationally Described Space Standards (NDSS). These standards set out the required internal space standards for new dwellings of all tenures and although not yet adopted by BDC are utilised for new developments.

In this case, the applicant is unable to comply fully with these standards without compromising the viability and the deliverability of the scheme because of the extra costs associated with constructing slightly larger buildings. Officers note that the deficit relates only to proposed market units and that all affordable units meet the required standards. Given that there is no affordable tenure discrimination; a detailed viability report has been submitted which Officers consider is valid; the site is a constrained brownfield site and as the NDSS are not yet adopted Officers do not consider that in this

instance this constitutes a reason to recommend the refusal of the Reserved Matters application.

Impact Upon Neighbour Amenity

The application site is directly bounded by existing dwellings to the north. Following concerns raised by Officers, the scheme was revised so that the dwelling located on Plot 1 was moved further away from the shared boundary with No.108 East Street and rotated by 90 degrees to reduce its projection beyond the rear elevation of the existing neighbouring dwelling.

The rear elevation of Plot 1 is orientated towards the rear side boundary of No.4 St Mary's Road. The Essex Design Guide requires a 25m separation distance for dwellings which sit in a back to back relationship. Where the backs of houses are at more than 30 degrees to one another this distance may be reduced. Plot 1 and No.4 St Marys Road are positioned at almost 90 degrees to one another and the proposed separation distance of approximately 25m is considered acceptable.

Plot 12 would sit with its rear elevation orientated towards the side boundary of the rear garden of No.28 St Mary's Road. The distance between the rear elevation of the new dwelling and the rear elevation of the existing would be approximately 18.5m. In this case the dwellings not only sit in an almost 90 degree relationship to one another but the rear elevation of the new dwelling is orientated towards the side boundary of the existing dwellings rear garden part way down this garden, which is of a substantial size. The Essex Design Guide specifies that dwellings should have at least a 3m private sitting out area which is not directly overlooked. The closest habitable room window on the new dwellings rear elevation would be orientated towards a point approximately 12m down the existing dwelling's rear garden, ensuring that the specified 3m zone would not be directly overlooked.

Residential Amenity

The site is bounded in part by existing commercial and industrial units, particularly along its southern border. In terms of noise impact, there is a condition attached (condition 9) to the outline planning permission which requires details of noise insulation/mitigation measures for the new dwellings to be submitted for approval by the Local Planning Authority prior to the commencement of development. This was a requirement of the Council's Environmental Health Officer who reviewed the applicant's noise report submitted in support of the outline application.

The reserved matters layout is broadly in line with the illustrative masterplan submitted at the outline stage and the applicant has not attempted to shift dwellings closer to the adjacent industrial noise sources. The detailed noise insulation/mitigation measures for the new dwellings would be dealt with under the discharge of condition 9 of the outline consent.

In terms of general amenity, as per the illustrative masterplan submitted in support of the outline application there are no dwellings directly adjacent to the largest industrial building located immediately adjacent to the site's south-eastern boundary. Plots 54 and 74 would sit adjacent to a smaller commercial building positioned on the site's south-western boundary but in a side to side relationship. The rear gardens of both units far exceed the upper required garden space of 100m² for 3 bed units with Plot 74 having a 184m² rear garden and Plot 54 a 164m² rear garden. Future residents' outlook would not be directly orientated towards this building, their gardens would be spacious and it is not considered that the adjacent commercial building would have an overbearing impact upon them.

Plots 58 to 63 would sit adjacent to a 2 to 2.5 storey commercial unit which abuts the site's western boundary. The dwellings would be in a back to back relationship with this building which has no windows on its rear elevation. The distance between the new dwellings and the existing commercial units would be a minimum of 13m with the dwelling's rear gardens backing onto the shared boundary. All of these gardens exceed the required standards and it is not considered that this existing commercial building would have an overbearing impact upon residents of the new dwellings, particularly with an appropriate boundary treatment in place.

Overall it is considered that the proposed detailed layout successfully takes account of the adjacent commercial/Industrial buildings and that the amenity of future residents would not be unacceptably compromised.

Highways, Parking and Access

The applicant proposes a single primary vehicular and pedestrian access point from East Street located in the position of the existing site access point. The scheme has been revised to reduce the number of private driveways exiting onto East Street as suitable visibility splays could not be achieved.

Essex County Highways have been consulted and at the time of writing their formal consultation response confirming no objection is awaited although officers understand that it will be issued imminently and certainly prior to the planning committee.

Internally the development's estate road would consist of a 5.5m wide adoptable highway with 2m pedestrian footways on either side. This would transition to a shared surface which would provide the internal estate road loop encompassing the central block of development located within the heart of the site.

Parking for each dwelling would be provided in accordance with the Essex Parking Standards (2009) at a rate of 1 space per 1 bed unit and 2 spaces per 2 or more bed units. Parking would primarily be located on plot with several small parking courts also being utilised. There would be a minor shortfall in visitor parking with 16 rather than 19 spaces being provided. This is considered to be acceptable given the very modest nature of the shortfall.

Other Matters

A number of technical consultees have provided brief comment in relation to the discharge of conditions relating to the outline consent for the site. Although these do not directly relate to the current reserved matters application and will be dealt with under a discharge of condition application(s) in due course, comments are summarised briefly below.

The Council's Environmental Health Officer is satisfied with the submitted contamination remediation statement (required under Condition 8 of the outline permission). The final validation report will need to be formally submitted under a separate discharge of condition application.

The Council's Ecology Officer has advised that details of proposed ecological enhancement to the site (integrated bird nesting and bat roost boxes/bricks) must be submitted to the LPA (under a discharge of condition application) for consideration prior to occupation of the development.

Anglian Water advise that the impact upon the public foul sewerage network is acceptable at this stage and seek consultation when a discharge of condition application is submitted to seek approval of detailed foul drainage information and detailed surface water drainage information.

Finally Essex County Council SUDs advise that further Drainage Strategy details will be required before the surface water drainage conditions attached to the outline consent can be discharged.

Landscape

Policy CS8 (*Natural Environment and Biodiversity*) of the adopted Core Strategy 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 applicant proposes a hard and soft landscaping scheme across the site which, following revisions made during the course of the planning application is acceptable although a condition specifically to cover the final detail of the area of open space located at the southern end of the site is required.

Originally, the proposed pumping station located on the area of public open space at the southern end of the site was positioned at the front of this open space. This would have created a hidden area behind the pumping area which would not have benefited from any form of natural surveillance and would have had clear potential for anti-social behaviour. The surface of the landscaped area was also stated as being entirely grassed. Given its small size and the fact that it will, at times sit in the shade due to the proximity of adjacent commercial buildings this was not considered by officers to be appropriate, particularly for winter use.

Following detailed discussions with the applicant the pumping station was reduced in size and re-located to sit at the rear corner of the open space leaving the remainder of the area open to natural surveillance. Further work is still required with regard to the final landscape design and detail of this space to ensure that it has a clear purpose and will be usable by future residents all year round and this can be secured by way of condition.

Condition Compliance

The applicant has also requested confirmation that a number of conditions attached to the outline consent have been complied with.

Condition 1 requires that details of the scale; appearance; layout; access and landscaping of the scheme are submitted to the Council under a Reserved Matters application by 23rd February 2020. The current submission complies with this with the exception of the open space area where a new condition is required.

Condition 2 states that the reserved matters submission shall include no more than 74 dwellings. The current scheme proposes exactly 74 dwellings.

Condition 3 requires finished floor levels to be provided alongside any Reserved Matters application. These have been provided and are considered to be acceptable.

Condition 5 requires any Reserved Matters application to include full access details. Again, these have been provided and subject to formal approval from Essex County Highways are considered to be acceptable.

Condition 30 states that the landscape scheme submitted under the Reserved Matters application shall provide full landscape scheme details. These have been provided again with the exception of the open space area where a new condition is required.

The applicant has complied with the relevant parts of these conditions as set out above.

Habitat Regulations Assessment

Natural England published revised interim guidance on 16th August 2018 in connection with the emerging strategic approach relating to the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitat Regulations.

However, the current proposal is for the approval of Reserved Matters pursuant to an existing extant outline planning permission with the relevant planning obligations already being secured under the s106 Agreement

attached to this outline planning permission. It is not therefore considered that an Appropriate Assessment is required under the Habitat Regulations.

Conclusion

The principle of the residential re-development of the site is established under the existing outline consent. The applicant seeks permission only for reserved matters pursuant to this outline consent consisting of the access; appearance; landscaping; layout and scale of the development.

There are no objections from the relevant statutory technical consultees and Officers consider that the proposed access; appearance; landscaping; layout and scale of the development are acceptable in planning terms.

The applicant also seeks confirmation that a number of conditions relating to the outline consent have been complied with which Officers have set out above.

The scheme represents the re-development of a brownfield site within the District's main town and the detailed proposals follow lengthy negotiations and discussions with Officers over both the outline and reserved matters stages. Overall it is considered that the detailed proposal constitutes a sustainable residential development in an appropriate location and accordingly it is recommended that the Reserved Matters are approved.

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: EASTST-IW-XX-XX-DR-A-1000 Version: P1
Proposed Site Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2067 Version: P21
Proposed Roof Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2068 Version: P10
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2101 Version: P2
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2103 Version: P4
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2102 Version: P2
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2104 Version: P3
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2105 Version: P2

Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2106 Version: P2
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2109 Version: P2
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2108 Version: P2
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2107 Version: P2
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2116 Version: P2
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2115 Version: P2
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2114 Version: P3
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2113 Version: P3
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2112 Version: P2
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2111 Version: P2
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2110 Version: P2
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2123 Version: P3
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2122 Version: P2
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2121 Version: P3
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2120 Version: P2
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2119 Version: P2
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2118 Version: P3
Proposed Floor Plan	Plan Ref: EASTST-IW-XX-XX-DR-A-2117 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2200 Version: P3
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2201 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2202 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2203 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2204 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2205 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2206 Version: P3

Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2207 Version: P3
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2208 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2209 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2210 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2211.1 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2211.2 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2212 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2213 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2214 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2215 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2216 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2217.1 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2221 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2218 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2219.1 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2220 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2222 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2223 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2224 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2225 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2226 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2228 Version: P3
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2227 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2229 Version: P3
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2230 Version: P2

Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2231 Version: P2
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2232 Version: P3
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2233 Version: P3
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2234 Version: P3
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2235 Version: P2
Landscape Masterplan	Plan Ref: JBA 17-377-01 Version: C
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2217.2 Version: P1
Proposed Elevations	Plan Ref: EASTST-IW-XX-XX-DR-A-2219.2 Version: P1
Landscape Masterplan	Plan Ref: JBA 17-377-02 Version: C
Landscape Masterplan	Plan Ref: JBA 17-377-03 Version: C

- 1 The development hereby permitted shall be carried out in accordance with the approved plans listed above with the exception of the area of public open space located at the southern end of the site, the details of which shall be agreed under Condition 2 of this decision notice.

Reason

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

- 2 Prior to the commencement of any works in the area of the site identified as formal public open space on approved drawing Proposed Site Roof Plan EASTST-IW-XX-XX-DR-A-2068 P10 a detailed landscape layout scheme shall be submitted to and approved in writing by the local planning authority for this area of the site. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate.

The scheme shall also provide full details of the finished ground levels of this part of the site and the details and specification of an area of all-weather surfacing with associated seating and informal play features. It shall also include full details of the proposed pumping station and its boundary treatment/enclosure.

All planting, seeding or turfing contained in the approved details of the landscaping scheme for this area of the site shall be carried out in the first planting and seeding seasons after the commencement of the development.

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the

development whichever is the earlier.

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. The area of all-weather surfacing, seating and informal play features shall be permanently retained in their approved form.

Reason

To ensure the adequate provision of usable, high quality amenity/open space to serve and enhance the development.

- 3 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking or re-enacting that Order) no alterations to the roofs of the dwellinghouses located on Plots 1; 2; 3; 11; 12; 13; 14; 15 and 24 shall be carried out without first obtaining planning permission from the Local Planning Authority.

Reason

To protect the amenity of the occupants of existing dwellings adjacent to the site.

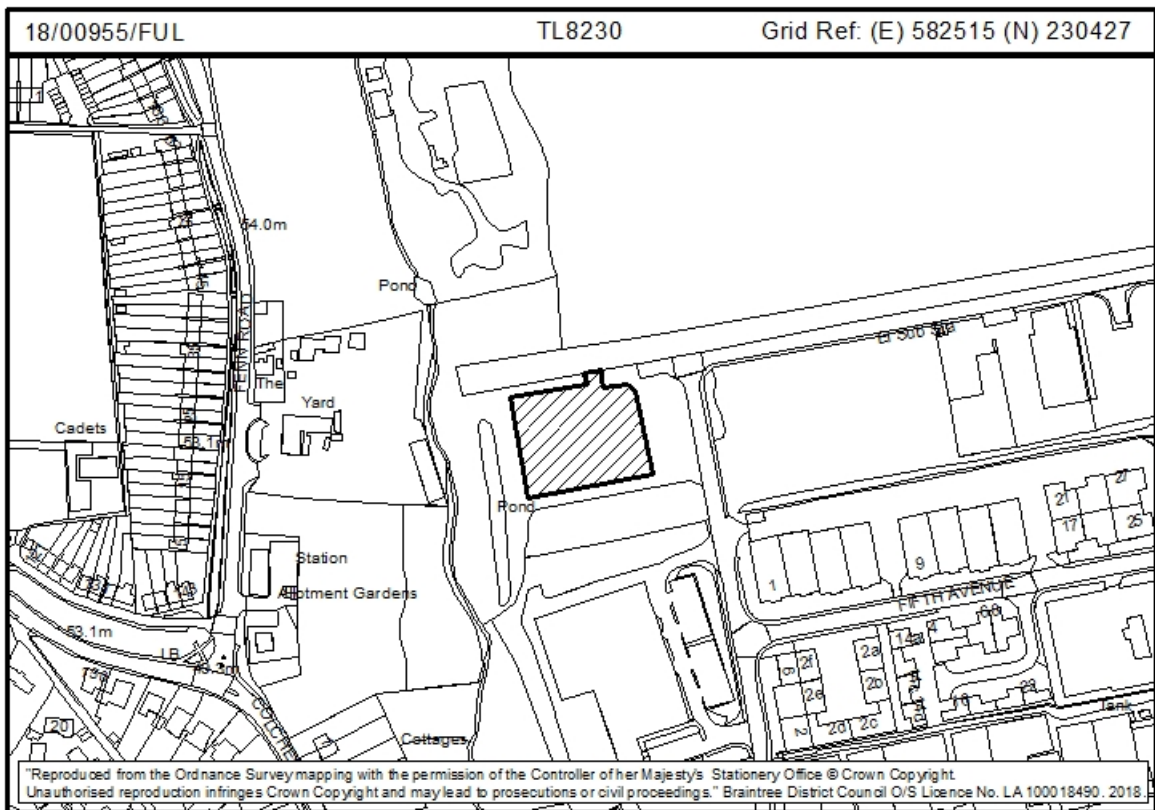
CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

AGENDA ITEM NUMBER 5d

PART A

APPLICATION NO: 18/00955/FUL DATE: 12.06.18
VALID:
APPLICANT: East Anglian Property Investments Ltd
AGENT: Boyer
Miss Paige Harris, 15 De Grey Square, De Grey Road,
Colchester, Essex, CO4 5YQ
DESCRIPTION: Erection of 4 no. B1/B2/B8 units with associated parking,
landscaping and extension to footpath
LOCATION: Land At, Sixth Avenue, Bluebridge Industrial Estate,
Halstead, 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

None.

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 Publication 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 joint North Essex-Authorities (NEAs) have received a post hearing letter dated 8th June 2018. This letter outlined a number of short comings about the Garden Communities in the Section 1 Plan relating to transport infrastructure, employment, viability, and the sustainability appraisal.

The letter has outlined 3 options for how to proceed with the Section 1 Publication Draft Local Plan.

- Option 1 – Remove the Garden Communities proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time.
- Option 2 – The NEAs carry out further work on evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2 examinations. This option would result in the suspension of the examination, and the part 2 examination could not take place.
- Option 3 – Withdraw Section 1 and Section 2 of the Plans from examination and to resubmit them with any necessary revisions, after carrying out required further work on the evidence base and Sustainability Appraisal, and the relevant consultation and other procedures required by legislation.

A further Supplementary Post-hearing letter dated 27th June has also been received. This letter provided the Inspectors views on policy SP3 of the Section 1 Plan which covers housing requirements. The letter concludes that the housing requirement figures for each of the NEAs set out in policy SP3 is

its respective objectively-assessed housing need, which for Braintree is 716 dwellings per annum.

The North Essex Authorities have agreed to produce further evidence to present to the Planning Inspector on the section 1 Local Plan. The authorities will need to agree with the Planning Inspector a timetable for the completion of this work, but this will result in a delay to the adoption of the Local Plan.

In accordance with paragraph 48 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 48 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
RLP27	Location of Employment Land
RLP36	Industrial and Environmental Standards
RLP34	Buffer Areas between Industry and Housing

RLP56 Vehicle Parking
RLP90 Layout and Design of Development

Braintree District Local Development Framework Core Strategy 2011

CS4 Provision of Employment
CS7 Promoting Accessibility for All
CS8 Natural Environment and Biodiversity
CS9 Built and Historic Environment
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
LPP2 Location of Employment Land
LPP45 Parking Provision
LPP50 Built and Historic Environment
LPP55 Layout and Design of Development

Other Material Considerations

Site Allocations and Development Management Plan
Essex Parking Standards

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to the Planning Committee at the request of the Chairman and Vice-Chairman of the Planning Committee, as the proposed scheme could be significant in its impacts.

SITE DESCRIPTION

The application site consists of a vacant area of grassland adjacent to the highway of Bluebridge Industrial Estate. The site is surrounded by the Industrial Estate to the east and north, an allotments and Council Yard to the west, and a field to the north, separated from the site by an existing hedgerow. The Industrial Estate is located on a gradient, with the land rising toward the east. The application site sits on lower ground than the rest of the industrial estate, and higher ground than Colchester Road to the west.

The site itself is not allocated as part of the Bluebridge Industrial Estate. It is situated to the west of Third Avenue. There is an existing access onto the site.

PROPOSAL

The application proposes to develop the site for 4 units, which could be used for either B1 (offices) and/or B2 (workshop) and/or B8 (storage/distribution) uses.

The new units would be served by a total of 22 on site car parking spaces, including 6 spaces for vans. An on-site bin store is also shown on the submitted plans.

The units would be of traditional construction, featuring monopitch roofs clad in metal sheeting. The elevations would be clad in a green metal, with the exception of those facing the parking area, which would be finished in the occupiers' colours.

The existing roadway would be extended into the site. The site itself would be landscaped on all boundaries.

CONSULTATIONS

BDC Environmental Health – No Objections, subject to conditions to minimise any impacts upon neighbouring residential amenities caused by construction on the site.

BDC Economic Development – Support the application, as it would result in the creation of jobs within the District.

BDC Ecology – Upon receipt of additional information in relation to protected species, no objections are raised.

ECC Highways – No Objections.

REPRESENTATIONS

A site notice was displayed at the front of the site and neighbours were notified by letter. No representations have been received.

REPORT

Principle of Development

The application site is located outside of the Halstead Town Development Boundary and outside of, but adjacent to, the Bluebridge Industrial Estate. As such the Local Plan Proposals Map shows the site to be within the countryside for planning purposes. Policy CS5 of the Adopted Core Strategy states that development outside of development boundaries 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 RLP27 of the Adopted Local Plan relates to where employment development may be acceptable. It states:

Development for employment uses shall be concentrated on suitable sites in towns and villages where housing, employment and other facilities can be provided close together. Development for business, commercial and industrial use shall be located to minimise the length and number of trips by motor vehicles. Development for employment uses will not be permitted where it would be likely to add unacceptably to traffic congestion.

Policy RLP34 of the Adopted Local Plan relates to buffer areas between employment uses and residential development, as follows:

In considering proposals for new employment uses, the District Council will seek, where appropriate, the retention of buffer zones between employment uses and adjacent housing areas. In appropriate circumstances the provision of suitable landscaping will be required between large-scale industrial uses falling in use Class B1, B2 and B8 and adjacent housing areas.

The emerging Draft Local Plan provides a strong direction toward providing additional employment, commercial and industrial development where it is appropriate. However, the application site has not been included within the development limits of Halstead within the Draft Local Plan, and therefore in terms of the policy, the site is considered 'countryside' where the principle of new development is not considered acceptable.

It is acknowledged that a separate site was put forward for development (HASA288 – Local Plan Sub Committee 25 May 2016) to the north-west of the application site, and was not recommended for development by the Committee.

However, it is noted that the site subject of this application was not put forward in the call for sites and has not been considered by the Local Plan Sub-Committee. It is a far smaller site than that to the north-west, and shares a strong visual link with the rest of the Industrial Estate.

The National Planning Policy Framework provides a national direction for industrial/commercial/employment uses, stating at Paragraph 80 “significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development”, and at Paragraph 84:

Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings,

does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

In the case of this application, the site would be accessed directly from an existing employment site, and shares a strong visual and functional relationship to this site. Although the Development Plan indicates the site is in a countryside location, Officers are of the view that given the site's strong relationship with the existing Industrial Estate, being surrounded on three sides by industrial development within the Industrial Estate and a Council owned allotment site and Council Yard, the principle of development is acceptable.

The submitted Landscape and Visual Impact Assessment indicates that, despite the gradient and subject to appropriate landscaping, views from outside of the industrial estate would be minimal. In this regard, the development of this site for four commercial/industrial units would have a minimal impact on the wider countryside.

In summary, the site's relationship with the existing Industrial Estate, the drive for economic growth in the NPPF, and the sustainable nature of its location, are material considerations which weigh in favour of the proposed development.

Design, Appearance and Layout

The proposed layout shows four units contained in a 'U' shaped form with a shared car parking area. The site would be accessed by the existing road infrastructure within the industrial estate, itself accessed from Colchester Road. A bin storage area would be provided within the site. The layout of the proposal would be typical of this type of use.

The submitted elevation drawings show the units would be two storey in height, adopting a fairly utilitarian industrial appearance, similar to other existing units within the Bluebridge Industrial Estate. The colour of the units would aid in minimising impacts of the development into the landscape. A condition is recommended requiring a sample of the proposed external finishes, in order to give Officers the opportunity to consider the materials.

The site would be landscaped to include planting on all four sides, reducing any views toward the site. This is also discussed in more depth below.

Impact on Neighbour Amenity

The closest existing residential dwelling to the site is known as Lewises, and is situated off of Colchester Road. The application site is separated from this dwelling by a Council Yard and vegetation. This factor, together with the

distance between the application site and the closest dwelling, is sufficient that it would not result in any unacceptable impacts upon their residential amenities.

Officers note that there is a site to the north-west which has been allocated for residential development (HASA 295). Using the application site for employment purposes has the potential to prejudice the residential use of the allocated site. Therefore future impacts upon this site must be considered at this stage. The proposals include retaining vegetation along the boundary to the north of the site, and significantly reinforcing boundary treatments on all other sides. A condition is recommended requiring details of all existing and proposed landscaping. The new buildings would be set off from each of the boundaries, and the site's 'U' shape form would contain impacts and prevent further development to the west. In this regard impacts would be limited, and minimised through the use of further landscaping.

BDC Environmental Health raises no objections to the proposals on grounds of Environmental Health, suggesting six planning conditions be attached to the decision notice. It should be noted that in forming this view, Environmental Health have taken into account Draft Allocation for residential development adjacent to the site. These relate to the hours of working on site, the restriction of burning of waste on site, recommending a dust and mud management control scheme be submitted, and restricting piled foundations on site before a system of piling has been submitted. To prevent unacceptable impacts on the allocated residential site to the north-west, they also recommend two conditions relating to noises emanating from the site.

Accordingly, the proposals would not prejudice the residential amenities of existing or future dwellings near the application site.

Highway Issues

The proposed development would take advantage of the existing road infrastructure serving Bluebridge Industrial Estate, which leads directly to the application site. The provision of four units would not result in a significant increase in the use of the access onto Colchester Road, and the Highway Authority have not objected to this.

According to the Essex Parking Standards, a B1 use should be accompanied with 1 parking space for each 30 square metres, 1 space for each 50 square metres for a B2 use, and 1 space for each 150 square metres for a B8 use. This application shows that the site would include the provision of 22 car parking spaces. This would include 14 spaces associated with the B2/B8 uses, of which there would be 693 square metres of floor space, and 8 parking spaces associated with the B1 office uses, of which there would be 249 square metres of floor space.

This parking provision complies with the Parking Standards, and the Highway Authority have not raised any objections to the application.

Landscape and Ecology Issues

The site at present is unused, with long grass and some sporadic vegetation. Given the nature of the site, the presence of protected species must be assessed. A Phase 1 Habitat Survey was submitted with the application, which indicated further work would be required in order to ascertain the presence of Great Crested Newts and reptiles.

The Council's Ecology Officer required this work to be carried out prior to determination as the use of a planning condition would not have been appropriate, given the potential implications which could prevent development altogether.

The applicants submitted two further surveys; an eDNA Great Crested Newts analysis and a Reptile Survey. Both surveys demonstrated that there were no Great Crested Newts or reptiles on the site, and the Council's Ecology Officer raises no objection to the application being approved subject to the imposition of four conditions. These conditions would require a lighting design strategy in order to protect bats, limiting the time the site can be cleared in order to protect nesting birds, requiring details of ecological enhancement (e.g. bird/bat boxes on the site), and requiring fresh surveys to be carried out if the development does not commence within 2 years of the date of the decision.

The site plan shows that the boundaries of the site, adjacent to the buildings, would be planted to prevent unacceptable impacts on the landscape. The landscaping to be required would include the planting of thick vegetation.

CONCLUSION AND PLANNING BALANCE

The application proposes four commercial/storage/light industrial units, in a location which is well-related, and in close proximity, to Bluebridge Industrial Estate. The site is located outside of the Industrial Development Limits of Bluebridge Industrial Estate, however there is a good relationship between the application site and the rest of the Industrial Estate.

There would be economic benefits as a result of the proposal, due to the creation of jobs, and supporting a prosperous rural economy as the National Planning Policy Framework suggests. Whilst there would be a degree of environmental harm caused as a result of the proposed development, this harm can be minimised through the use of planning conditions, and is outweighed by the benefits of the proposal. The application is acceptable in highway terms, and as discussed in the report, would not result in any unacceptable impacts upon the residential amenities of either existing or future dwellings close to the site.

Therefore, Officers 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 Site Plan	Plan Ref: 18/BB2/P001B
Existing Sections	Plan Ref: 18/BB2/P002A
Proposed Site Plan	Plan Ref: 18/BB2/P003B
Proposed Floor Plan	Plan Ref: 18/BB2/P004B
Proposed Floor Plan	Plan Ref: 18/BB2/P005B
Proposed Elevations	Plan Ref: 18/BB2/P007A
Proposed Elevations	Plan Ref: 18/BB2/P009A
Photograph	Plan Ref: 18/BB2/P010
Location Plan	

- 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 No above ground development shall commence unless and 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 only be implemented in accordance with the approved details.

Reason

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

- 4 Prior to the first use of the building(s) hereby approved for B1/B2/B8 purposes, the car parking area indicated on the approved plans, including any accessible parking spaces for disabled persons, shall have 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.

- 5 Prior to the installation of any form of external lighting, a lighting design strategy (pre and post construction) for bats shall be submitted to and approved in writing by the Local Planning Authority. The submitted Strategy shall;
 - i. Identify areas/features on the site that are sensitive for all bat species on site, and that are likely to cause disturbance in or around the breeding sites, and resting places or along important territory routes used to access key areas of their territory, for example foraging; and
 - ii. Show how and where the external lighting will be installed so that it can be clearly demonstrated that areas lit will not disturb or prevent bats using their territory or having access to their breeding sites or resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. No additional external lighting shall be installed without prior written consent from the Local Planning Authority.

Reason

To safeguard any protect 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.

- 6 No development shall commence unless and until details of the proposed ecological enhancement of the site have been submitted to and approved in writing by the Local Planning Authority. The details shall include the proposed habitat improvement/retention of the hedgerow through native planting, and the provision of bird nesting and bat roosting boxes which, where appropriate, should be integrated into the building design. The development shall only be carried out in accordance with the approved details.

Reason

This information is needed prior to commencement of the development, in the interests of habitat and species protection and achieving enhanced biodiversity through a range of measures.

- 7 If the development hereby approved does not commence (or having commenced is suspended for more than 12 months) within 2 years from the date of the planning consent, the approved ecological measures

secured through Conditions shall be reviewed and where necessary amended and updated. The review shall be informed by further ecological surveys commissioned to establish i) if there have been any changes in the presence of reptiles and ii) identify any likely new ecological impacts that might arise from any changes.

Reason

To ensure there is no harm or disturbance to a protected or priority species.

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

Monday to Friday - 08:00-18:00 hours

Saturday - 08:00-13:00 hours

Sunday & Bank Holidays - No work

Reason

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

- 9 No burning of refuse, waste materials or vegetation shall be undertaken on the application site 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.

- 10 A dust and mud control management scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and shall be adhered to throughout the construction process.

Reason

In the interests of highway safety.

- 11 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 in consultation with the Head of Environmental Services 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.

- 12 Notwithstanding the provisions set out in the Town and Country Planning

(General Permitted Development) (England) Order 2015 (as amended), no additional external plant or equipment shall be installed on the buildings or on the roof of the buildings without first obtaining planning permission from the Local Planning Authority.

Reason

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

- 13 Development shall not be commenced until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. Such scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development.

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier.

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.

Reason

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

- 14 Notwithstanding the provisions set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the use of the buildings as approved shall be used for purposes falling within use classes B1, B2 and/or B8, as defined by the Town and Country Planning (Use Classes Order) 1987, or any legislation which supersedes it.

Reason

The site lies in a rural area where development other than for agricultural purposes is not normally permitted.

INFORMATION TO APPLICANT

- 1 To avoid disturbance to nesting birds vegetation removal 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. (This should include ground nesting birds also).

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 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.

3 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

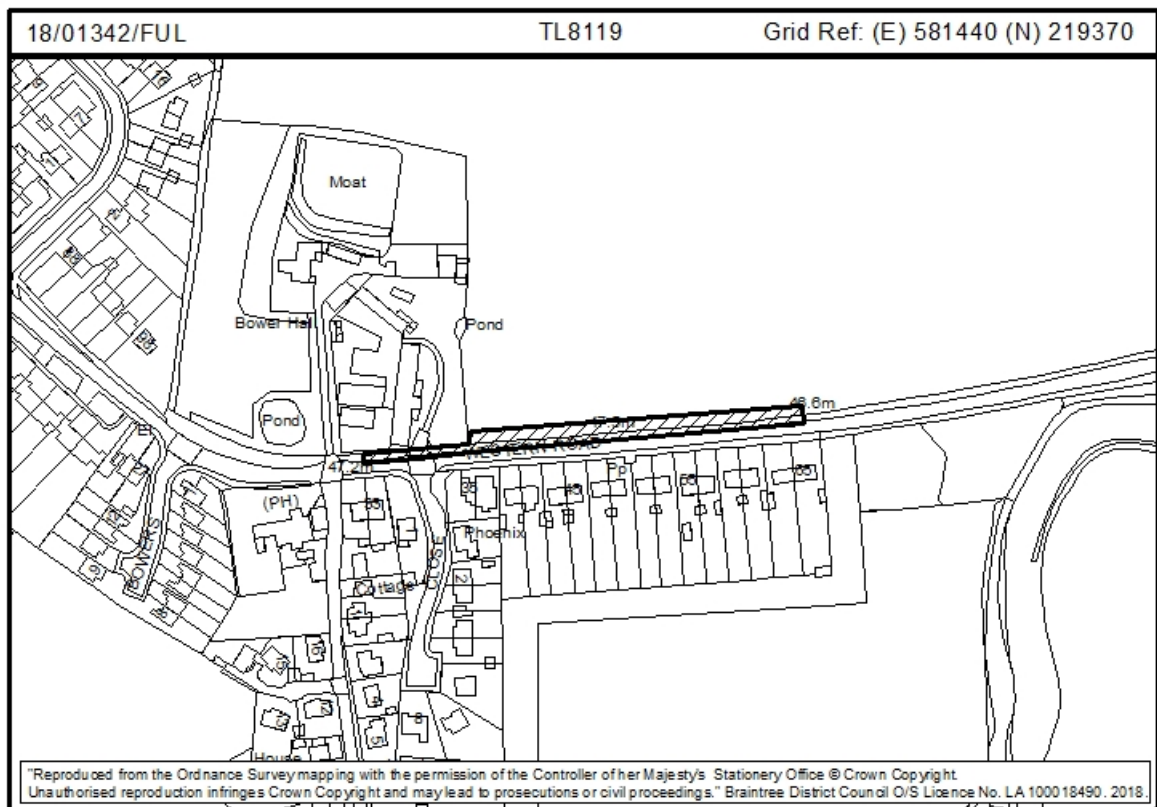
4 The rating level of noise emitted from any external plant at the premises shall not exceed the background level (determined by measuring LA90 for any 15 minute period when the premises is not operating, but which should be similar as possible to conditions that prevail during the operation of the premises) by more than 5dB(A) measured as LAeq (15 minutes). The noise levels shall be determined at any noise sensitive dwelling, in accordance with measurement procedures laid down in BS 4142 : 2014.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

PART A

APPLICATION NO: 18/01342/FUL
 DATE VALID: 27.07.18
 APPLICANT: Redrow Homes Ltd
 C/O Agent
 AGENT: Strutt and Parker
 Miss Katherine Dove, Somerset House, 222 High Street ,
 Guildford, GU1 3JD
 DESCRIPTION: Creation of a field access from Western Road into Land
 North of Western Road, erection of gate posts, gate and
 fence.
 LOCATION: Land off Western Road, Silver End, Essex

For more information about this Application please contact:
 Mr Neil Jones on:- 01376 551414 Ext. 2523
 or by e-mail to: neil.jones@braintree.gov.uk



SITE HISTORY

15/00280/OUT	Outline planning permission for up to 350 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation. With all matters to be reserved.	Appeal 20.04.16 Allowed
18/01693/FUL	Creation of a permanent vehicular access from Western Road into Land North of Western Road, Silver End and creation of drainage features.	Pending Decision
18/01701/DAC	Application for approval of details reserved by condition 6 of approved application 15/00280/OUT	Pending Consideration
18/01734/DAC	Application for approval of details reserved by condition 12 of outline planning permission 15/00280/OUT.	Pending Consideration
18/01737/DAC	Application for approval of details reserved by condition 9 of outline planning permission 15/00280/OUT.	Pending Consideration
18/01739/DAC	Application for approval of details reserved by condition 14 of approved application 15/00280/OUT	Pending Consideration
18/01742/DAC	Application for approval of details reserved by condition 15 of approved application 15/00280/OUT	Pending Consideration
18/01743/DAC	Application for approval of details reserved by condition 16 of approved application 15/00280/OUT	Pending Consideration
18/01744/DAC	Application for approval of details reserved by condition 20 of approved application 15/00280/OUT	Pending Consideration

18/01745/DAC	Application for approval of details reserved by condition 21 of approved application 15/00280/OUT	Pending Consideration
18/01747/DAC	Application for approval of details reserved by condition 18 of approved application 15/00280/OUT	Pending Consideration
18/01751/REM	Application for approval of Reserved Matters (Appearance, Landscaping, Layout and Scale) following the grant of outline planning permission ref: 15/00280/OUT - Erection of 350 dwellings (including 40% affordable housing), creation of internal roads, footpaths, open space, SuDS features, a sub station, a pumping station and groundworks.	Pending Consideration
18/01932/DAC	Application for approval of details reserved by condition 8 of outline planning permission 15/00280/OUT.	Pending Consideration

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 Publication 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 joint North Essex-Authorities (NEAs) have received a post hearing letter dated 8th June 2018. This letter outlined a number of short comings about the Garden Communities in the Section 1 Plan relating to transport infrastructure, employment, viability, and the sustainability appraisal.

The letter has outlined 3 options for how to proceed with the Section 1 Publication Draft Local Plan.

- Option 1 – Remove the Garden Communities proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time.
- Option 2 – The NEAs carry out further work on evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2 examinations. This option would result in the suspension of the examination, and the part 2 examination could not take place.
- Option 3 – Withdraw Section 1 and Section 2 of the Plans from examination and to resubmit them with any necessary revisions, after carrying out required further work on the evidence base and Sustainability Appraisal, and the relevant consultation and other procedures required by legislation.

A further Supplementary Post-hearing letter dated 27th June has also been received. This letter provided the Inspectors views on policy SP3 of the Section 1 Plan which covers housing requirements. The letter concludes that the housing requirement figures for each of the NEAs set out in policy SP3 is its respective objectively-assessed housing need, which for Braintree is 716 dwellings per annum.

The North Essex Authorities have agreed to produce further evidence to present to the Planning Inspector on the section 1 Local Plan. The authorities will need to agree with the Planning Inspector a timetable for the completion of this work, but this will result in a delay to the adoption of the Local Plan.

In accordance with paragraph 48 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 48 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
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
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

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
LPP17	Housing Provision and Delivery
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP56	Conservation Areas
LPP60	Heritage Assets and their Settings
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

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to the Planning Committee as the application is considered to be of significant public interest. Silver End Parish Council has also objected to the application, contrary to the Officer recommendation to approve the application.

SITE DESCRIPTION

The application site, denoted by the red line, comprises part of the Western Road to the east of Bowers Hall. The site area includes the carriageway and the footway on the northern side of the road and part of an arable field which has a tall hedge running alongside the highway boundary.

As denoted by the blue line on the location plan the application site is part of a larger site owned by the applicant. The larger site has outline planning permission for up to 350 residential dwellings, including 40% affordable housing, introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation. The outline planning permission was granted at appeal in March 2017 (reference 15/00280/OUT).

The larger site comprises two fields separated by a ditch and hedgerow, measuring in total around 16ha. The northern field has been used as a horse paddock with the southern field in arable production. There is a late 20th century residential development to the west. Bowers Hall, a Grade II listed farmhouse set in a large curtilage, adjoins the south west corner of the site. To the south the site has a frontage to Western Road, which is bounded by a substantial hedgerow. There is a ribbon of 20th century development fronting the southern side of Western Road for around half the length of the appeal site frontage. There is open farmland to the east and north east and, to the North West, there are extensive residential curtilages of properties fronting Sheepcotes Lane.

The site falls gently from west to east towards a watercourse along the eastern boundary. Public Footpath 53 runs close to Western Road along the full extent of the southern edge of the site inside the boundary hedge. Beyond the site it continues eastwards across the next field before turning north.

PROPOSAL

This planning application seeks full planning permission for the creation of a vehicular access off Western Road into the site. The application refers to the access as a 'field access'.

It is proposed that the access will be formed in a location broadly opposite No.47 & No.49 Western Road. The access would be 6 metres wide with 2m corner radii and it is proposed to extend 5 metres beyond the edge of the

carriageway with the access being surfaced with black tarmac. A pair of 3 metre wide timber five bar field gates would be erected at the back of the access.

To provide the visibility splays that are required the application also proposes the removal of approximately 135m of the existing hedgerow along the frontage of the site on Western Road. The application proposes the erection of a traditional cleft chestnut post and rail fencing (referred to as 'Sussex rail' fencing) along the Western Road site boundary to replace the removed length of hedge.

The application is accompanied by plans and technical documents which include:

Arboricultural Impact Assessment
Biodiversity Survey and Report,
Hedgerow & Landscape Strategy
Transport Note, and Designers Response to Stage One Highway Safety Audit
Tree Survey
Vegetation Removal Plan

CONSULTATIONS

BDC Environmental Health – No objection subject to condition relating to construction activity. Comments made in respect of future application for a construction access and haul road in this location.

ECC Highways – No objection subject to a condition requiring that the field access gates shall be set back a minimum 6 metres from the Western Road carriageway edge.

Silver End Parish Council – Object.

'Echo Cllr Abbott that the hedge should remain in situ as there is live elm present and many species of wildlife. Suggest installation of roundabout to improve sightlines'

REPRESENTATIONS

Twenty-nine letters of representation have been received, including one from Cllr. Abbott who is a ward member, objecting to the proposal on the following grounds:

- The development is not acceptable in principle;
- Residents had previously been assured that the hedge would not be removed;
- The hedge is healthy and is not dying as the applicant has stated and contains a wide range of species and is of a considerable age;
- Silver End was planned as a garden village therefore there is a need for developments within or around the edge of the village to adhere to those principles;

- The loss of hedge will destroy a key feature as you enter the village;
- The hedge should be retained to protect residents living opposite the site from the forthcoming development;
- The hedge is an important landscape feature, protecting the road from the weather and providing shelter from noise and weather;
- The applicant has understated the value of the hedge as a habitat and foraging area for wildlife;
- Removal of the hedge will make using the Public Right of Way less attractive;
- The proposed fence and gates and hoardings are inappropriate;
- The extent of the hedge that would need to be removed is excessive and is unnecessary as it could be translocated, or trimmed back.

REPORT

Principle of Development

This application proposes works which the applicant considers are necessary to begin implementing the residential development of the site as permitted through the grant of Outline Planning Permission.

As Members will be aware Outline Planning Permission for the development of up to 350 dwellings on land north of Western Road was granted on appeal by a Planning Inspector. The Council opposed the grant of planning permission but following a 5-day Public Inquiry the Planning Inspector concluded *'My overall assessment is that the adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. Consequently, material considerations indicate that permission should be granted notwithstanding the conflict with the development plan'*. As such the principle of residential development on this site has been accepted.

As always, in assessing this application it is necessary to assess the proposal against relevant planning policies, however when making that assessment it is necessary to consider whether what is proposed in this application conflicts with the proposals that the Planning Inspector concluded were acceptable.

Highway Considerations

There is currently no vehicular access in to the site off Western Road. The current situation is that there is a narrow footway of approximately 1m as far as the bus stop. The boundary hedge stands hard on the back of the footway, and beyond the footway it is hard on the back of the carriageway. If an access were formed by cutting a hole in the hedge and installing a drop curb the hedge that remained would severely restrict visibility for drivers / vehicles exiting the site. For the access to be used safely it would be necessary to provide sufficient visibility to allow drivers to see approaching traffic in both directions.

The Highway Authority has assessed the application and the Transport Note contained within it. Along the stretch of Western Road where the proposed field access will be formed the speed limit is 30mph, however it is close to the location where the speed limit changes to the national speed limit (60mph) and local residents have previously referred to vehicle speeds regularly exceeding this. Following two speed surveys undertaken by the applicant the Transport Note contains an assessment of the average speed of vehicles passing the site and this evidences that average speeds exceed the speed limit. As a result of the speed survey findings the Highway Authority have agreed that to ensure appropriate visibility for vehicles leaving the site a clear splay of 90m in both directions is required.

The applicant has demonstrated that with the removal of a section of the hedge, as shown on the submitted plans, visibility splays at the junction of 90m in each direction can be achieved.

It is noted that the Parish Council have objected to this application and that they would consider that a roundabout is provided at the access to improve sightlines. It is assumed that the reference to constructing a roundabout to provide access is actually the Parish Council's preference for the permanent means of providing vehicular access to the site. It would not be reasonable or justified to require the construction of a roundabout to provide temporary field access for site investigation work.

Design and Appearance, including Landscape

Policy CS8 of the Adopted Core Strategy seeks to ensure that development proposals have regard to the character of the landscape and its sensitivity to change. Policy CS9 of the Adopted Core Strategy promotes good design and the protection of the historic environment, requiring development to respect and respond to local context.

Policy RLP80 of the Adopted Local Plan seeks to protect distinctive landscape features and to ensure that development is integrated into the local landscape. Policy RLP81 of the Adopted Local Plan encourages the retention and planting of native trees and hedgerows and Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan seek a high standard of layout and design.

The existing tall hedge stands hard on the back of Western Road. As referred to above, 90 metre visibility splays are required to provide a safe access with adequate visibility. It would not be possible to achieve the required level of visibility with the hedge retained in-situ, even if it were trimmed back or reduced in height

At the Public Inquiry it was established that the proposed residential development would result in the loss of characteristic features of the landscape, including some hedgerows. The Inspector at Paragraph 41 of the decision letter states that the *'most notable hedgerow loss would be on the Western Road frontage where most of the existing substantial hedgerow*

would need to be removed to create visibility splays'. It is clear from the appeal decision that having assessed the quality of the hedge and its contribution to the character and appearance of the area the Inspector concluded that the benefits of the housing development outweigh the harm that they identified and this included the loss of the hedge along the Western Road boundary. This is a material consideration which must carry significant weight in the determination of this application.

As summarised above, the Council has received 29 letters objecting to the application and all of these object on the grounds that so much hedgerow will be lost.

In response to these concerns the applicant has submitted a '*Hedgerow and Landscape Strategy*'. This starts by stating that before this application was submitted the applicant considered other options for gaining access to the site. These options included access off Daniel Way; use of an existing lane which runs to the north of the site and enters the site in the north western corner; access off adjacent fields to the east; locating the access to the south eastern corner of the larger site. All these options were dismissed for a variety of reasons. Even if it were possible, and practical, to create a temporary field access for preliminary site investigations using one of these options none of them would be suitable for providing vehicular access for the development that has outline planning permission. The outline planning permission established that the site access (or accesses) should be off Western Road and that to achieve appropriate visibility splays for the new permanent vehicular access into the site it would be necessary to undertake the removal of the boundary hedge.

A number of the objections dispute the applicants' assessment of the quality of the hedge and its ecological value. The applicant's arboricultural consultant states that the hedge is infected with Dutch Elm disease and 50% of the Elm is already dead and that the Horse Chestnut has been infected with bleeding canker which reduces the longevity of the species within the hedge. The Council's Landscape Officer has visited the site and their assessment is that the hedge proposed for removal on the 'Vegetation Removal Plan' is mainly composed of hawthorn, blackthorn, field maple and elm. Most of the elm is dead from Dutch Elm disease and the overall condition of the vegetation along the road is poor, showing signs of die back and lacking vigour.

A number of representations that have been received have referred to a recent planning application at Rickstones Road, Witham where the developer was required by the Planning Committee to move approximately 100m of hedge and transplant it further back into the site. The applicants' consultant has considered whether the Western Road hedge could similarly be transplanted back into the site. Their report concludes that this is unlikely to be successful given the age of the hedge; the presence of diseased plants; and the proximity of many of the plants to the road which would make it very difficult to excavate sufficient root mass for a successful translocation. The Arboricultural Statement states that aftercare would also be required for up to

5 years following the transplantation of the hedge and that even with this the chances of survival are considered to be low.

The Council's Landscape Officer has also considered whether translocation of the hedge would be the best solution. They advise that even if carried out by specialist firms the transplanting mature plants is not a guarantee of their survival. It is a well-known fact that the success rate on mature trees establishment following translocation is much lower than that of new planting, for the following reasons:

- To transplant this hedge you would need to dig out enough of the rootball in order to keep a large ball of soil intact around the roots. With large plants this is difficult as roots may extend out several times the width of the shrub. In this particular case, as the hedge is located along the highway we would expect that about half of the root ball would not be accessible. The reason for this is that smaller roots (called root hairs) are responsible for absorbing water and nutrients from the soil. Digging up a tree or shrub, irrespectively of how careful you are, will result on losing a large amount of these smaller roots, leaving old, heavy, thick roots with limited absorption abilities.
- The plants would then need some drastic pruning after the translocation as their root systems would be compromised and they would not be able to support their leaves. To keep the balance between roots and top they would probably need to cut back by half in height. This would have a visible impact on amenity, but also their biodiversity bearing capacity. It would also mean that it would take this the translocated hedge several years to re-establish itself and begin growing again.
- The poor condition of the existing hedge means that any translocation would be expected to have an even lower success rate. The Elm is mostly dead or dying from Dutch Elm disease, with the plants showing sparse canopies and signs of die-back. Plants which are in failing health are not good candidates for translocation given the extreme stress that the process puts on the plants.

Given the declining health and condition of the hedge and the need to create adequate visibility to allow safe vehicular access to / from the site it is accepted that planting a new hedge further back in to the site is the most practical solution to mitigating the loss of the hedge.

It is often the case that new landscaping provided as part of a development is provided shortly before the new housing is completed. In this case the applicant has agreed that they will plant a replacement hedge across the width of the site (excluding access points) in length in the first planting season after the hedge is removed.

Having reviewed the proposed soft landscaping scheme for the new hedge the Council's Landscape Officer has recommended that the hedge should be planted in a double staggered row pattern so the hedge is denser and that the plant mix should include a larger proportion of evergreen species in order to provide an efficient screening during winter. The applicant has amended the landscaping plan in line with this recommendation. The specification of the plants will help the new hedge to establish more quickly. The planting mix that includes a variety of species is also proposed to provide a range of ecological habitats and visual interest.

In light of all the above factors Officers consider that as a temporary safe access is required into the site, and as translocation is not considered to be an appropriate solution, the planting of a new replacement hedge in the first planting season after removal would be the most appropriate course of action.

Following removal of the hedge the applicant proposes the reception of a timber post and rail fence along the boundary to secure the site.

Impact on Neighbours

The proposed access is intended to be used by light vehicles, such as vans, and will be used infrequently whilst site investigations are undertaken ahead of the residential development of the site. BDC's Environmental Health raises no objection to the application but recommends that a condition is applied controlling the timing of the works to construct the access.

Ecology

With regard to biodiversity, an extended Phase 1 Habitat Survey of the site was undertaken in February 2018, with further checks in April and May. The report states that the access would encroach onto a strip of semi-improved grassland which runs adjacent to the hedgerow and the arable field. The hedgerow is insufficiently species-rich across its length to be considered to be 'important' under the Hedgerow Regulations 1997.

No signs of badger activity were recorded within the immediate vicinity of the hedgerow.

The applicant's ecology report confirms that there are no mature trees within the hedgerow that would offer suitable roosting opportunities for bats. However, the report states that the hedgerow is utilised by foraging and / or commuting bats and this has been confirmed in a number of letters objecting to the application. The removal of the hedge would remove this foraging corridor for bats however other hedges around the site and in the locality will remain. The applicant proposes a new replacement hedge be planted to mitigate this loss and in time this will mitigate the loss of hedge and the development would not have any short term or long term detrimental effects on the local bat population.

The report recommends the hedgerow is removed outside of the nesting bird season (March to August inclusive) or alternatively checked by an ecologist immediately prior to it being removed and this can be covered by planning condition.

Heritage

There are numerous heritage assets in the locality but the appeal decision establishes that the heritage assets which required detailed consideration in respect of this site are Grade II listed Bowers Hall, the Bowers Hall moat and the Silver End Conservation Area.

When granting planning permission for up to 350 dwellings on the site the Inspector considered the loss of the hedge along Western Road. They concluded that the proposal in totality would result in less than substantial harm to the significance of Bowers Hall and barns, further characterising the degree of harm as minor. The Inspectors decision is a material consideration in the determination of this application and given their conclusions Officers consider that there can be no objection to this application on heritage grounds.

Conclusion and Planning Balance

The Council opposed the principle of residential development of this site, however outline planning permission was granted on appeal. Whilst the Council would usually seek to retain established landscape features, such as hedgerows, in the Inspectors appeal decision it is clear that the hedge will not be able to stay in-situ. It is accepted that the removal of hedgerow will inevitably change the character and appearance of this stretch of Western Road.

The hedge performs an important function in this location but the Planning Inspector who granted planning permission for development clearly accepted the principle of vehicular access off Western Road in the full knowledge that this would result in the loss of hedgerow.

Neither retention of the hedge in-situ or translocation are viable solutions which would allow suitable safe vehicular access. The access arrangements have been agreed with the Highway Authority, whose priority is highway safety. Average speeds passing the site means that visibility splays of 90m in both directions are required. If the splays were reduced in size visibility would be reduced and the risk of accidents increased. Regrettable as it is, a significant stretch of hedge will need to be removed to meet appropriate safety standards.

The proposed replacement planting and its timing will seek to mitigate the loss of the hedge so far as is practicable.

Notwithstanding the fact that Officers and Members were opposed to the development of this site the fact is that Outline Planning Permission was won

on appeal. Given the pressing need to increase the delivery of new housing in the District, now that planning permission has been granted it is important that the development proceeds without unnecessary delay and on this basis Officers recommend that planning permission is 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	Plan Ref: 70043745-SK-17	Version: A
Site Plan	Plan Ref: 70043745-SK-12	Version: B
Proposed gate details	Plan Ref: 70043745-SK-15	Version: A
Other	Plan Ref: Vegetation Removal Plan - JBA 18/045 VR01	Version: A

Landscape Masterplan

- 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 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.

- 4 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.

- 5 No clearance of trees and shrubs in preparation for (or during the course of) development shall take place during the bird nesting season (March - August inclusive) unless a bird nesting survey has been submitted to and approved in writing by the local planning authority. If such a survey reveals the presence of any nesting birds, then no development shall take place within those areas identified as being used for nesting during the period specified above.

Reason

In order to ensure that there are no nesting birds within the hedge when the works to remove the hedge are undertaken.

- 6 The scheme of landscaping indicated upon the approved plan, or such other scheme as may be agreed in writing by the local planning authority, shall be carried out during the first available planting season after the removal of the hedgerow on Western Road, as shown on the approved plans. Any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

Reason

To enhance the appearance of the development and for the replacement hedge to become established as soon as possible following removal of the existing hedgerow.

- 7 Prior to first use of the new field access visibility splays with dimensions of 2.4 metres by 90 metres as measured from and along the nearside edge of the carriageway shall be provided on both sides of the access. 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.

- 8 The access hereby approved is to be used only for the carrying out of the following works that are associated with the delivery of the approved residential development granted under planning permission reference 15/00280/OUT:
 - a) Site surveys and ground investigations
 - b) Ecological surveys
 - c) Archaeological surveys

- d) Remediation
- e) Erection of boundary fencing and hoardings
- f) Welfare facilities necessary for the implementation of the above works

The access hereby permitted is to be used on a temporary basis for up to 18 months from the grant of this planning permission. Unless otherwise agreed with the Local Planning Authority in writing, 18 months from the grant of this planning permission the temporary vehicular access shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge and kerbing, details to be agreed in writing with the Local Planning Authority.

Reason

This permission for a limited period is granted only in the light of circumstances appertaining in this case.

INFORMATION TO APPLICANT

- 1 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.

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).

All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to development.management@essexhighways.org or SMO1 - Essex Highways, 653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ

- 2 Prior to the commencement of the development hereby permitted arrangements shall have been agreed in writing with the Highway Authority for safeguarding, or temporarily diverting the public rights of way across the site including the provision and maintenance of temporary fencing and signposting where appropriate.

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

Appeal Decision

Inquiry opened on 31 January 2017

Site visit made on 7 February 2017

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 March 2017

Appeal Ref: APP/Z1510/W/16/3146968

Land off Western Road, Silver End, Essex CM8 3SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Gladman Developments Ltd against Braintree District Council.
 - The application Ref 15/00280/OUT is dated 27 February 2016.
 - The development proposed is up to 350 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation.
-

Decision

1. The appeal is allowed and outline planning permission is granted for up to 350 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation at Land off Western Road, Silver End, Essex CM8 3SN in accordance with the terms of the application, Ref 15/00280/OUT, dated 27 February 2016, subject to the conditions set out in the attached schedule.

Preliminary matters

2. The Inquiry sat for 5 days from 31 January to 3 February and on 7 February 2017.
3. The application was in outline with all matters reserved for subsequent approval. It was supported by an illustrative development framework plan. An alternative illustrative development framework plan was submitted in support of the appeal together with illustrative access details showing one way in which the site could be provided with two vehicular access points to Western Road. I have taken this illustrative material into account in reaching my decision.
4. The Council resolved that, had it been in a position to determine the application, it would have been refused for 7 reasons¹ which may be summarised as follows:
 - 1) the site lies outside the development boundary of Silver End and would amount to an unjustified intrusion into the countryside, harmful to the rural setting of the village

¹ The reasons are set out in full in the Council's Statement of Case

- 2) the Council does not accept that the proposal would amount to sustainable development, as defined in the National Planning Policy Framework (the Framework), having regard to:
- the excessive amount and unsuitable location of the development
 - the lack of availability and capacity of local services
 - adverse landscape impacts
 - harm to the setting of the Grade II listed Bowers Hall, together with its associated curtilage buildings, and to the setting of the Silver End Conservation Area
 - the failure to demonstrate that safe and suitable access could be provided
 - the absence of proposals to enhance the sustainability of the proposal, including in relation to early years/childcare services, funding for school transport and the extension of bus services at the start and end of the day to provide improved access to rail services at Braintree and Witham
 - the failure to demonstrate that mineral deposits at the site cannot be worked economically
- 3) the proposal would enclose Bowers Hall, to the detriment of the setting of the farmstead. It would also be harmful to the character and appearance of the Silver End Conservation Area in that the key eastern approach would assume an inappropriately urban appearance
- 4) the proposals could sterilise a potentially economically workable mineral deposit
- 5) the application does not demonstrate that a safe and suitable access to the public highway could be provided
- 6) the application does not demonstrate that the traffic generated would not adversely affect the functioning of the wider highway network, including junctions at Galleys Corner (A120) and the Rivenhall End junction with the A12
- 7) the absence of planning obligations relating to affordable housing, early years/childcare facilities, primary education, off-site highways works, health care, bus service enhancements and management of open space.

In this decision I refer to these as the putative reasons for refusal (PRR).

5. Statements of Common Ground (SoCG) were agreed between the Council and the appellant in relation to heritage, landscape and planning matters. There were also SoCG agreed between the County Council and the appellant in relation to highways and transport, minerals and education. The Council did not take a different view on any of the matters agreed by the County Council.
6. A Unilateral Undertaking (UU) was submitted at the Inquiry. This was not signed before the end of the Inquiry because of the need for some changes which did not become apparent until the final day. I therefore allowed a period following the Inquiry for a signed version to be submitted. The UU would make

provision for financial contributions to off-site open space, health care, early years/childcare facilities, primary education and school transport for secondary school pupils. The UU also contains provisions relating to arrangements for managing and maintaining green infrastructure, safeguarding land for an early years/childcare facility, an offer to transfer that land to the County Council and the arrangements for implementing a travel plan.

7. The Council submitted written evidence of compliance with Regulations 122 and 123 of the Community Infrastructure Levy Regulations (where relevant) and with the tests for planning obligations set out in the Framework. Further information was provided at the Inquiry in answer to my questions. The need for these obligations was not disputed by any party at the Inquiry and I see no reason to take a different view. I consider that the obligations are consistent with the Regulations and the Framework and have taken them into account in my decision accordingly. I return to some of the individual obligations below.
8. The Council did not pursue PRR1 for reasons explained below. Having considered the illustrative access plan and the highways and transport SoCG, the Council did not pursue PRR5 or PRR6. PRR2 was not pursued insofar as it relates to the capacity of local services, safe and suitable access, early years/childcare services and funding for school transport.
9. The application was accompanied by an Environmental Statement (ES). At the Inquiry the Council confirmed that it was satisfied with the ES. No other party has queried the adequacy of the environmental information and I have taken the ES into account in reaching my decision.
10. In closing, the Council made reference to a High Court judgment in the case of *Watermead*². A Court of Appeal decision in respect of this matter was expected imminently. I therefore allowed a period for any final submissions in the light of that decision. In the event, the Court of Appeal decision was not received in the timescale anticipated. I therefore invited the appellant to make final submissions on the High Court decision, which I have taken into account.

Main issues

11. The main issues are:

- the extent to which the services and facilities needed to serve the proposed development would be available, would have sufficient capacity and would be accessible by sustainable modes of transport
- the effect of the proposal on the character and appearance of the area
- the effect of the proposal on the historic environment
- the effect of the proposal on mineral resources

Reasons

Housing land supply and policy context

12. The development plan includes saved policies of the Braintree District Local Plan Review 2005 (BDLP), the Braintree District Council Core Strategy 2011 (CS) and the Essex Minerals Local Plan 2014 (EMLP).

² *Watermead Parish Council v Aylesbury Vale DC* [2016] EWHC 624 (Admin)

13. The Council and the appellant agreed that the Council is not able to demonstrate a 5 year supply of housing sites, as required by the Framework. There was not agreement over the precise amount of supply, with the Council promoting a figure of 3.8 years and the appellant suggesting that the figure is 3.1 years³. However, the Council and the appellant agreed that the remaining difference between them was not likely to have a material bearing on the outcome of this appeal. Consequently, neither side called detailed evidence on this matter. For the purposes of this decision, I am satisfied that the range is sufficiently narrow that it is not necessary for me to comment further on the difference between the parties. I have approached my decision on the basis of a range of 3.1 to 3.8 years.
14. In accordance with paragraph 47 of the Framework, it follows that relevant policies for the supply of housing are not to be considered up-to-date. PRR1 refers to CS policy CS5 and BDLP Policy RLP 2. These policies seek to protect the countryside by restricting development outside settlement boundaries. The Council accepts that these are relevant policies for the supply of housing and that is the reason why it did not pursue PRR1. In my view the Council was right to take this approach. Having regard to the housing land supply position, only limited weight should be attached to the conflict with these policies.
15. The Council has started work on the preparation of a new local plan (eLP). Consultation on the draft eLP took place in 2016. The Council and the appellant agree that it should be given limited weight at this early stage of preparation, a view which I share.

Availability and accessibility of services and facilities

16. The CS defines Silver End as a Key Service Village – one of 6 such settlements in the District. They are described as:
- ...large villages with a good level of services, including primary schools, primary health care facilities, convenience shopping facilities, local employment, frequent public transport to higher order settlements and easy access by public transport to secondary schools.*
17. The Council argued that the characteristics of Silver End have changed since the CS was prepared and that this designation will not be carried forward into the eLP. However, the eLP is at an early stage and little weight can be attached to what it may ultimately say about Silver End. To my mind the CS provides the starting point although it is also necessary to go on to consider how things may have changed since it was adopted in 2011. Moreover, I attach little weight to CS Policy CS1 which sets out levels of housing provision for the key settlements over the period 2009 to 2026. That is a relevant policy for the supply of housing which is not to be regarded as up-to-date.
18. One factor which has changed is the level of local employment. A local Councillor gave evidence that employment opportunities within Silver End are now more limited following the closure of some locally important businesses. On the other hand, Silver End is relatively close to employment opportunities in both Witham and Braintree, which are two of the three main towns in the District.

³ The disagreement related to whether the Liverpool or the Sedgefield approach should be used in the calculation

Education facilities

19. Many of the written representations draw attention to pressures on primary education facilities. The appeal scheme would generate a requirement for about 105 primary school places. Silver End Primary School is located about 500m from the site entrance on Western Road. The school has recently been expanded to accommodate planned growth in the area and is unlikely to be able to accommodate children from the appeal site. The County Council has commented that further expansion is unlikely to be possible unless additional land can be made available. However, the County Council states that there is a reasonable degree of confidence that Cressing Primary School, which is about 2.5 miles away, could be expanded to provide sufficient primary school places to serve the appeal proposal. The UU would secure a proportionate contribution to the provision of additional school places. The UU allows for expansion either at Cressing or at Silver End, although the evidence suggests that expansion at Cressing is more likely to be achievable.
20. In the light of the UU, neither the Council nor the County Council maintained an objection in relation to primary education. Even so, one consequence of the appeal proposal would be that some primary school children from Silver End would need to travel to Cressing. As that is a journey which is unlikely to be walkable I regard this as a disadvantage of the appeal scheme.
21. There are secondary schools with capacity to serve the appeal scheme in Witham and Braintree. School transport is currently provided from Silver End and the County Council has confirmed that pupils from the appeal site would be eligible for such transport⁴. The UU provides for a contribution to the additional costs of school transport which would arise as a result of the location of the appeal site, which is a little over 3 miles from the nearest secondary school. I therefore consider that this is a location which has easy access to secondary schools by public transport.
22. The County Council has identified a shortage of early years/childcare facilities in Silver End. It is proposed that a new facility would be provided within the appeal site. The County Council assesses that the appeal scheme would generate a need for around 31 places and that the smallest viable unit would be a 56 place facility. The UU makes provision for a suitable area of land to be safeguarded for this purpose and offered to the County Council. Further provisions would address practical issues such as access and utilities. There would also be a proportionate financial contribution to the cost of constructing the new facility.
23. The new facility would require planning permission in its own right and further funding would be needed. However, having regard to the scale of the appeal site I see no reason why the design and layout of the proposed housing scheme could not satisfactorily accommodate the suggested facility. The Council and the County Council are satisfied that the UU addresses the need generated by the appeal scheme and I share that view. Being within the site, the facility would be highly accessible to the new residents and I have no doubt that it would promote social wellbeing.

⁴ Document LPA4, paragraph 7.8

Health care

24. There is a GP practice located centrally within Silver End, which is combined with the practice of the St Lawrence Surgery, Braintree. Several of the written representations have expressed concerns about the pressures on GP services. Responding to the application, NHS England sought a proportionate financial contribution to the cost of providing additional health facilities. The UU would secure an appropriate contribution to provision either at Silver End or at the St Lawrence Surgery.

Access to other facilities within Silver End

25. Local shopping facilities are available at the Broadway, where there is a convenience store and post office, newsagent/off-licence, pharmacy and a hot food takeaway. Other community facilities near the Broadway include a library, a sports ground and the memorial gardens. At the Inquiry the Council agreed that Silver End has facilities which are sufficient to meet the day to day needs of most people. That seems to me to be a fair assessment. There is no reason to think that the capacity of any of these services would be insufficient to cope with additional use by new residents of the appeal scheme.
26. The highways and transport SoCG notes that the walk time from the site access to the shops would be about 12 to 13 minutes. This is characterised as a '*convenient walk or cycle ride*'. Of course it is also necessary to factor in additional walk time within the site, which would vary according to the location of any given property. I note that Manual for Streets (MfS) states that walkable neighbourhoods are characterised by having a range of facilities within a 10 minute walk. However, MfS makes clear that this is not an upper limit. Moreover, it is relevant to consider the nature of the walking route. In this case I saw that this would be mainly flat, passing through pleasant residential areas with adequate footways and lighting. I see no reason to disagree with the SoCG insofar as it relates to the site access and the southern part of the site.
27. Having said that, the SoCG does not specifically address the northern part of the site which is at some distance from Western Road. The alternative development framework shows a potential pedestrian link from the western side of the site to Daniel Way. The link exists presently on an informal basis but the appellant informed the Inquiry that there is an area of privately owned land between the site boundary and the public highway. Discussions with the owner of that land are in progress. The Council argued that, if planning permission were to be granted, it should be subject to a Grampian condition requiring the provision of a pedestrian/cycle link at this point. The appellant agreed that such a condition could properly be imposed if it were found to be necessary, whilst maintaining that it would not be necessary because (in the appellant's view) the site would be sufficiently accessible without it.
28. If a link to Daniel Way were provided, houses in the northern part of the site would be likely to have walk times to the centre of Silver End which would be comparable to those from houses in the southern part of the site. Without such a link the walk times would be significantly extended. I consider that this would be a real disincentive to making trips within the village on foot. In the terms of the Framework, the scheme would fail to take up the opportunities for

sustainable transport modes⁵. In my view a Grampian condition is necessary to make the development acceptable in planning terms.

Access to services and facilities in other settlements

29. Silver End lies between Braintree and Witham, two of the three main towns in the District. These higher order centres provide a range of opportunities for employment, shopping and leisure activities. Witham is on the railway line from Ipswich to London, which also provides rail services to Chelmsford and Colchester. There is a bus service running between Braintree and Witham which stops in Western Road, close to the proposed access. This offers a reasonably frequent service, Monday to Saturday. The buses run until the early evening, with the last bus from Witham leaving at around 19.30hrs. These services would provide a reasonable level of accessibility for those travelling to the nearby towns for work, shopping and leisure activities at these times. The proposals include measures to relocate and upgrade the bus stops which could be secured by a condition.
30. PRR2 and PRR7 refer to the need to extend bus services into the evening period. The Council's main concern under this heading was that people commuting to London by rail from Witham may choose to drive to the station because of the lack of evening bus services. That may well be the case for a proportion of rail commuters, depending on their working hours and place of work. However, there was no evidence before the Inquiry to show that this would apply to such a large number of people that it would be an important factor in this case. Nevertheless, the lack of evening and Sunday bus services would also limit public transport accessibility for some work and leisure trips and this should be recognised as a disadvantage.
31. A local Councillor gave evidence that the nature of local roads is such that relatively few people would choose to cycle as a means of travelling outside the settlement of Silver End. From what I saw of the local road network I have no reason to doubt that evidence.

Conclusions on the first main issue

32. Silver End has a range of local facilities, sufficient to meet most day to day needs. Subject to the Grampian condition referred to above these would be reasonably accessible on foot. The UU would secure appropriate and proportionate contributions to mitigate the impact of the proposal on early years/childcare facilities, primary education and health care. Although the availability of employment in Silver End is more limited than it was at the time it was designated as a Key Service Village, there is reasonable accessibility to employment opportunities in a range of higher order settlements.
33. The need for some children to travel out of Silver End to attend a primary school in a nearby village is a disadvantage, as is the lack of bus services in the evenings and on Sundays. However, drawing together all of the above factors, I consider that the services and facilities needed to serve the proposed development would be available, would have sufficient capacity and would be reasonably accessible by sustainable modes of transport. The proposal would accord with CS Policy CS11 which seeks to ensure that the infrastructure,

⁵ The Framework, paragraph 32

services and facilities required to meet the needs of the community are delivered in a timely manner.

The effect of the proposal on the character and appearance of the area

34. The site comprises two fields separated by a ditch and a hedgerow. The northern field is used as horse paddocks and the southern field is in arable production. To the west is modern residential development on the edge of Silver End. Bowers Hall, a Grade II listed farmhouse set in a large curtilage, adjoins the south west corner of the site. Most of the former farm buildings, including a large 19th century barn, are in separate occupation and are used for the storage of cars. To the south the site has a frontage to Western Road, which is bounded by a substantial hedgerow. There is a ribbon of 20th century development fronting the southern side of Western Road for around half the length of the appeal site frontage. There is open farmland to the east and north east and, to the north west, there are extensive residential curtilages of properties fronting Sheepcotes Lane.
35. The site falls gently from west to east towards a watercourse along the eastern boundary. Public Footpath 53 (FP53) runs close to Western Road along the full extent of the southern edge of the site inside the boundary hedge. Beyond the site it continues eastwards across the next field before turning north on slightly higher ground which is at a similar elevation to the western edge of the appeal site. From this section of FP53 there are panoramic views of the appeal site and the eastern edge of Silver End.

Landscape character

36. The site lies within the 'Central Essex Farmlands' landscape character area as identified in the Essex Landscape Character Assessment. The characteristics described in that document are similar to those in the more local Landscape Character Assessment for Braintree District which places the site in the 'Silver End Farmland Plateau' character area. The key characteristics described in the latter document include gently undulating farmland, irregular predominantly large agricultural fields marked by sinuous hedgerows, small woods and copses, a scattered settlement pattern, a network of narrow winding lanes and a mostly tranquil character.
37. The Council and the appellant disagreed as to whether the site should be regarded as part of a valued landscape, as that term is used in the Framework. The site is not subject to any landscape designations. Whilst this is one indication of its value, it is not determinative. The *Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA3)* set out a range of factors that can help in identifying valued landscapes which I have taken into account⁶. The Council emphasised that the site is representative of the wider landscape character area, that it has recreational value and that it has historic and cultural interest associated with the adjoining listed buildings. It was suggested that, together, these factors indicate that the site should be regarded as a valued landscape.
38. The site forms part of an undulating agricultural landscape and includes a large field with some good hedgerows. There are some trees and copses nearby, although tree cover within the site itself is limited. There is a single oak which

⁶ Box 5.1

is subject to a Tree Preservation Order and there are other trees within the hedgerows. The character of the site is also affected by the edge of the built-up area of Silver End and by traffic on Western Road. It is not particularly tranquil and has few landscape features other than the boundary hedgerows. Thus, whilst it exhibits some of the characteristics of the *Silver End Farmland Plateau*, in my view it is not a particularly important example.

39. A public footpath traverses the site which provides the residents of Silver End with an opportunity to experience the countryside. That adds some recreational value. There are glimpsed views of the roofscape and chimney of Bowers Hall. These are heavily filtered by trees even in winter views. In visual terms there is only a limited connection between the Hall and the appeal site. The roof of the 19th century barn is a more distinctive feature. However, in the elevated views from FP53 to the east it is the modern housing development along the skyline which dominates and catches the eye. In my view the adjoining listed buildings have only a limited effect on the landscape value of the appeal site. My overall assessment is that, while the site has some scenic quality, it does not possess any characteristics which make it other than a pleasant but essentially ordinary tract of rural landscape. I do not think that it should be regarded as a valued landscape for the purposes of the Framework.
40. The Council has carried out an assessment of the capacity of land around Braintree to accommodate development⁷. This work identified a distinction between the two fields comprising the appeal site. The northern field was assessed as having a close physical and visual relationship with adjoining housing at Silver End and the small-scale and enclosed nature of the land was contrasted with the more open character of the adjoining farmland. This part of the site was described as having a medium-high capacity to accommodate development. The southern field is within an area which is assessed as having a medium-low capacity to accommodate development. However, the southern field is only part of a much larger parcel of land described in the Council's study as Parcel 2c. Within that much larger parcel, the appeal site is the part most closely related to the existing built form of Silver End. It is therefore likely to have a higher capacity than the parcel as a whole.
41. The appeal scheme would result in the loss of characteristic features of the landscape, including agricultural land and some hedgerows. The most notable hedgerow loss would be on the Western Road frontage where most of the existing substantial hedgerow would need to be removed to create visibility splays. The new housing would result in the loss of the current open character and would be locally prominent. There would also be some additional highway infrastructure with the introduction of right turn lanes and footways on the northern side of Western Road and the formation of two access roads into the site.
42. The alternative development framework shows one way in which green infrastructure could be an integral part of the design. This is an illustrative drawing. Nevertheless, I see no reason why the Council could not secure an appropriate response to the landscape context at reserved matters stage. The development framework shows substantial areas of open space along the eastern edge of the site and around Bowers Hall. Development is shown to be set back from Western Road sufficiently for a replacement hedge to be planted

⁷ Braintree District Settlement Fringes: Evaluation of Landscape Capacity Analysis Study for Braintree and Environs 2015

behind the visibility splays required for the new accesses. In the main the existing hedgerows are shown as being retained and reinforced with new planting. The TPO oak is shown as being retained as a feature of the layout. There are therefore opportunities for the mitigation of landscape impacts to be integrated in the design of the scheme.

43. The landscape and visual impact assessment (LVIA) submitted with the application assessed the effect of the proposal on landscape character as a moderate adverse impact. Having regard to all the above factors, I agree with that conclusion.

Visual impacts

44. The Council and the appellant agreed that the visual impacts of the proposal would be localised. It was also agreed that the main visual receptors would be the occupiers of residential properties adjoining the western edge of the site and people using FP53. There would be significant changes to the views from houses backing on to the site. However, the scale, location and orientation of the proposed houses would be controlled at reserved matters stage. No doubt full consideration would be given to any potential impacts on the living conditions of the adjoining residents as part of that process. There is no reason to think that satisfactory living conditions could not be maintained.
45. There would be a significant impact on the views experienced by users of FP53. The current open views across the site to the north would be curtailed and the path would skirt a housing estate rather than being in the countryside as it is now. On the other hand, these effects would mainly be experienced within the approximately 350m of FP53 which lies within the site. Once past the site, the effect would diminish over a relatively short distance. The appeal scheme would be clearly seen from the section of FP53 which runs northwards. The effect would be to bring the edge of the built-up area, which is already apparent on the skyline, closer to the viewer. Even so, this part of FP53 would still provide the experience of being in the open countryside, much as it does now.
46. The Council and the appellant disagreed over the effectiveness of mitigation. I agree with the Council that the loss of openness would be a permanent effect on landscape character. With regard to the effect on views, the Council was concerned that planting proposed along the eastern site boundary would not be effective because it would be at a lower level than the appeal site. The agreed landscape sections which were provided during the course of the Inquiry are helpful in assessing this point. Although the eastern edge is the lowest part of the site, the changes in level are not great. Moreover, to my mind the design objective of new planting here would not be to hide the proposal. Rather, the intention would be to help to integrate the new development into its surroundings in a way which is sympathetic to the existing landscape character. The sections show that, in time, the proposed planting could be of sufficient height to be effective. The details of mix of species and density of planting would be determined at reserved matters stage.

Conclusions on second main issue

47. To summarise, the proposal would result in moderate harm to landscape character and there would be some significant adverse visual impacts,

- particularly for users of FP53. However, the visual impacts would be localised and mitigation could be achieved as part of the detailed design of the scheme.
48. CS Policy CS8 seeks to ensure that development proposals have regard to the character of the landscape and its sensitivity to change. Amongst other matters proposals should enhance the natural environment by creating green networks to link urban areas to the countryside. Policy CS9 promotes good design and the protection of the historic environment, requiring development to respect and respond to local context. BDLP Policy RLP 80 seeks to protect distinctive landscape features and to ensure that development is integrated into the local landscape. Policy RLP 81 encourages the retention and planting of native trees and hedgerows and Policy RLP 90 seeks a high standard of layout and design.
49. The alternative development framework shows one way in which these policies could be addressed, insofar as it can at this outline stage. Ultimately compliance with these policies could only be secured at reserved matters stage. On the basis of the information before me I see no reason why the policies could not be complied with. I have not identified any inherent conflict with them.

The effect of the proposal on the historic environment

50. Although there are numerous heritage assets in the locality the Council and the appellant agreed that the heritage assets which require detailed consideration in this case are Bowers Hall and barns, the Bowers Hall moat and the Silver End Conservation Area. I share that view.

Bowers Hall and barns

51. Bowers Hall is a Grade II listed building. The listing description records that it is a timber framed structure dating from the 17th century and that the interior has exposed beams and original doors and panelling. The Hall also has a large chimney stack with a moulded brick cap which is a prominent feature. The Hall has both historic and architectural interest as an example of the vernacular architecture of the period. The listing description also includes '*barns and outbuildings to the south east*'. The most prominent of these is a large early 19th century⁸ threshing barn built on a north/south axis in the south east corner of the complex. A lower barn, of similar age, was built on a north west/south east axis between the threshing barn and the Hall. Other outbuildings are thought to be of little heritage significance and some may post-date the listing.
52. The threshing barn is of historic interest due to its impressive scale, its timber frame construction and the evidence it holds regarding the agricultural technology of the 19th century. The Hall and the barns were originally an isolated farmstead. Their survival as a recognisable farm group adds to both their individual and their collective interest. All of the above factors contribute to the significance of the designated heritage assets.
53. The coherence of the farmstead has been eroded by changes in ownership and land use. There is no longer any agricultural use and the Hall is a private dwelling. The threshing barn, and the spaces around the barns and outbuildings, are in separate ownership and are used for storing cars. There appears to have been a deliberate attempt to reinforce the separation of the two land uses through subsequent changes. A modern 4 bay garage with

⁸ This date was ascertained by map evidence but it is understood that the building may be older

accommodation above has been built between the Hall and the barns. The style of this building is sympathetic to the barns but its scale and siting have the effect of enclosing the Hall and separating it from the historic farm buildings. The Hall has a separate access and drive which is partially screened from the car storage operation by a fence and tall hedge.

54. The Hall is set within extensive grounds which include gardens, paddocks, stables and the former moat. (The moat is discussed further below). The grounds contribute to its significance because they enable the Hall to be seen as a free-standing structure in a sylvan setting. In addition, there is a pond and paddocks which may be vestiges of the former agricultural role of the farmstead. This is an aspect of the setting which can be seen in views from Western Road. The views from Western Road provide a good opportunity to appreciate the scale of the decorative chimney stack in relation to the roof of the Hall. The threshing barn can also be seen from Western Road.
55. The appeal site adjoins the boundary of the Hall complex and is within its setting. Historic mapping shows that the southern field of the appeal site was in the same holding as the Hall in 1839 although the association may well be older. It seems probable that the threshing barn was built to process grain from land which included a significant part of the appeal site. During the early 20th century Bowers Hall and its land (including the appeal site) were bought by the Silver End Development Company. This purchase was intended to supply food to the garden village which was being constructed at Silver End at that time.
56. In assessing the contribution the appeal site makes to the significance of the Bowers Hall complex the first point to note is that the ownership link and the functional link are no longer in existence. Moreover, since the separation of the barns from the Hall, changes to the immediate surroundings of the Hall have tended to reinforce its enclosure. Nevertheless, the appeal site remains in agricultural use and immediately adjoins the former farmstead. The current land use therefore adds something to the ability to understand and appreciate the significance of the listed buildings.
57. As noted above, the visual links between the appeal site and the listed buildings are not strong. Only the chimney and part of the roof of the Hall can be seen, and then only in filtered views. The roof of the threshing barn is a more prominent feature⁹. The most important views are those from the westernmost section of FP53. In these relatively close views the impressive height and scale of the barn can be appreciated. The chimney stack of the Hall is visible. The listed buildings can also be picked out in longer views from FP53 to the east of the appeal site. At this range the chimney stack is hard to discern. Whilst the threshing barn can be seen it is a minor element in a panoramic view. These middle distance views add little to the ability to experience the heritage assets.
58. The main effect of the appeal scheme would be to remove the agricultural land use which was formerly associated with Bowers Hall. The Council emphasised the cumulative nature of this effect. This once isolated farm group now has 20th century development to the west and south. The appeal scheme would introduce new housing to the north and east, separating the Hall and barns

⁹ Views of the lower barns and outbuildings are very restricted

from the open countryside. That would have a negative impact on the significance of the heritage assets.

59. The illustrative alternative master plan shows ways in which impacts on views could be mitigated. A buffer of open space, around 30m wide, is suggested adjacent to the eastern and northern boundaries of Bowers Hall and barns. This layout would help to reinforce the sense of the Hall as a free-standing building which could be seen in the round within a predominantly green setting. The suggested separation distance would avoid any sense of the Hall being hemmed in by modern development. Moreover, the layout could preserve the closer views from FP53 which enable the height and scale of the threshing barn to be appreciated. Indeed, some additional views may be obtained from within the open space. The extent to which such views would be preserved and/or created would depend on the amount and type of planting around this part of the appeal site boundary, a matter which would be determined at reserved matters stage.
60. It must be acknowledged that views from further back in the appeal site would be impacted by new development or curtailed altogether. In addition it is likely that the middle distance views from the east would be lost. That said, I have commented above that the middle distance views add little to the ability to experience the heritage assets in any event.
61. My overall assessment is that the scheme would not preserve the setting of the listed buildings at Bowers Hall and barns. The effect on the setting of the listed buildings would result in some harm to the significance of the listed buildings. In assessing the degree of harm, it must be noted that setting is only part of the significance of any heritage asset. In this case the fabric and architecture of the assets are important aspects of their significance which would be unaffected by the proposal. Moreover, the coherence of the farm group as a whole (albeit somewhat eroded), that part of the setting which falls within the curtilage of the Hall and barns and the views from Western Road would all be preserved. Insofar as views from within the appeal site contribute to setting, mitigation could be incorporated in the scheme at reserved matters stage.
62. For all these reasons I conclude that the proposal would result in less than substantial harm to the significance of Bowers Hall and barns. I would characterise the degree of harm as minor. Nevertheless, mindful of the relevant statutory duty¹⁰, I attach considerable importance and weight to this harm. The Framework requires the harm to be balanced against the public benefits of the proposal¹¹. I return to that balance in the conclusion to my decision.
63. BDLP Policy RLP 100 seeks to protect listed buildings and their settings. In that there would be some harm to the setting of the Hall and barns, this policy would not be complied with. However, the policy is not consistent with the approach to the historic environment set out in the Framework which requires harm to heritage assets to be balanced against public benefits. I therefore attach limited weight to the conflict with Policy RLP 100 and greater weight to the advice in the Framework.

¹⁰ Planning (Listed Buildings and Conservations Areas) Act 1990, section 66

¹¹ The Framework, paragraph 134

Bowers Hall moat

64. The moat is a non-designated heritage asset. The Essex Historic Environment Record (HER) identifies it as a Medieval feature. The moat appears on historic maps up to 1938 and the HER indicates that it was filled during the 1940s. Today there is a raised platform in the centre of the former moat with a depression to one side. Otherwise there is little evidence of the moat to be seen above ground. No building within the formerly moated enclosure has been identified. Nevertheless, the moat has evidential value in that it indicates the likely location of the precursor to the 17th century Hall. For the same reason, it has group value as part of the Bowers Hall complex – thereby adding to the significance of the listed buildings. The moat may contain archaeological evidence of past occupation and, if so, that would add to its significance.
65. The significance of the moat is mainly understood through historical records. To the extent that it can be experienced at all as a visible physical feature, this can only be done from within the northern part of the Hall complex. Even though the appeal site immediately adjoins the northern section of the moat, it makes no material contribution to the ability to experience the heritage asset. If buildings were constructed close to the boundary this could potentially disturb archaeological deposits. However, the alternative development framework shows that there would be an open space buffer at this point. Subject to appropriate mitigation being included in the layout, which could be secured at reserved matters stage, the appeal scheme would have no impact on the significance of the moat. Nor would there be any impact on the contribution that the moat makes to the significance of the Hall complex as a whole.

Silver End Conservation Area

66. The Silver End Conservation Area Appraisal (CAA) notes that the Silver End Garden Village was developed from 1926 to 1932 by Francis Crittall to provide a new factory and housing for his workers. The conservation area has both historic and architectural interest. Planned as a garden village, and containing a concentration of early Modern Movement houses, it is an example of new ideas in town planning and architecture which were current at that time. A significant amount of new housing development took place to the east of the conservation area during the latter part of the 20th century. This eastwards expansion included the land between the conservation area and Bowers Hall. The appeal scheme would not have any direct impact on the conservation area and would be separated from it by modern housing development. Consequently, mindful of the relevant statutory duty¹², I find that the character and appearance of the conservation area would be unaffected by the appeal scheme and would thus be preserved.
67. The main disagreement between the Council and the appellant related to the weight to be attached to any impact on the setting of the conservation area. There are two ways in which the appeal site may contribute to the significance of the conservation area. First, there is a historic association in that the appeal site forms part of a larger area of land purchased by the Silver End Development Company in order to supply food to the garden village. Second, one of the approaches to the conservation area is via Western Road. The Council argued that the rural character of this approach is important to the

¹² Planning (Listed Buildings and Conservations Areas) Act 1990, section 72

- understanding of the origins of the conservation area as a planned settlement in the countryside.
68. The historic association no longer exists and can only be understood by reference to documentary records. In addition, the appeal site is separated from the conservation area by intervening 20th century housing. In my view the ability to understand this association would not be materially affected one way or the other by the outcome of the appeal.
69. The CAA identifies a number of significant views, of which almost all are internal to the designated area. There is one identified significant view out over countryside which is adjacent to the primary school. That is a view to the south of the village which would be unaffected by the appeal scheme. I saw that the settlement has been designed such that views along the main thoroughfares are generally terminated by buildings. The CAA does not identify any important designed views into or out of the designated area. To my mind the nature of this particular conservation area is such that the setting makes only a limited contribution to its significance as a designated heritage asset.
70. Even so, the approach along Western Road does add (to some extent) to the ability to understand the origins of the garden village. The importance to be attached to that contribution should reflect the fact that this is only one aspect of the setting of the conservation area as a whole. There are other approaches to the conservation area and other locations where the designated area is much closer to the countryside. The appellant calculates that the distance along Western Road from the south west corner of the appeal site to the conservation area is about 280m¹³. Modern housing is already readily apparent along this part of Western Road. Moreover, there is already a more or less continuous run of 20th century ribbon development on the south side of Western Road opposite the appeal site¹⁴. For all of these reasons I consider that the contribution that the appeal site makes to the significance of the conservation area is very limited.
71. Turning to the impact of the appeal scheme, the alternative development framework shows one way in which this could be mitigated by setting back the development along Western Road and reinstating a new hedgerow behind the new visibility splays. Subject to appropriate detailed design, which could be secured at reserved matters stage, my overall assessment is that the effect of the appeal scheme on the significance of the conservation area would be so limited that it should attract little weight in the planning balance. In that there would be some harm (however minor) to the setting of the conservation area there would be conflict with Policy RLP 95 which seeks to preserve the settings of conservation areas. However, like Policy RLP 100, this policy is not consistent with the Framework. For the same reason, I attach limited weight to the conflict with Policy RLP 95 and greater weight to the advice in the Framework.

Conclusions on the third main issue

72. The main impact on the historic environment would be minor harm to the significance of Bowers Hall and barns. In the terms of the Framework this would be less than substantial harm. There would be no harm to the

¹³ The figure was not disputed

¹⁴ This extends about half way along the appeal site frontage

significance of the Bowers Hall moat. The harm to the significance of the Silver End Conservation Area (resulting from a change in its setting) would be so limited that it should attract little weight in the planning balance.

The effect of the proposal on mineral resources

73. The appeal site is located within a Minerals Safeguarding Area (MSA) where EMLP Policy S8 seeks to safeguard mineral resources of national and local importance. The policy sets out a consultation requirement for proposals, such as this, which are for more than 5ha of development within an area which is safeguarded for sand and gravel. The policy goes on to state that proposals which would unnecessarily sterilise mineral resources should be opposed. Where the local planning authority considers that surface development should be permitted, the policy requires that consideration is given to prior extraction of minerals.
74. Borehole data was submitted in support of the appeal. The minerals SoCG records that the County Council¹⁵ and the appellant agree that the northern field within the appeal site is unlikely to contain a viable deposit of sand and gravel. It also notes that the southern field contains a sand and gravel deposit around 10m in depth. Allowing for a 100m buffer zone between the excavation and residential properties, and a 20m buffer to other boundaries, it is agreed that the southern field could yield around 657,000 tonnes of sand and gravel. The appellant accepted that this volume is sufficient to be of economic importance. The main disagreement between the Council and the appellant related to the practicalities of prior extraction.
75. I accept the appellant's evidence that there would be significant practical difficulties in extracting the minerals from the appeal site. First, there would be limited space for processing the sand and gravel on site. Whilst the northern field might offer a possibility for processing it is close to several residential properties. In theory the minerals could be processed at the nearby Bradwell Quarry but there is no obvious reason why the owners and/or operators of that large and established facility would be agreeable to importing a competing source of sand and gravel. The need for processing could be reduced by dry-screening the minerals but that would reduce the market for them.
76. A second difficulty is the lack of a good means of road access for an aggregates operation. The Council's evidence accepted that the road links are '*not ideal*'. This is because of weight/height restrictions on the southern route to the A12. Consequently, all the HGV traffic would need to pass through the village of Silver End to the west of the site. The possibility of a haul road linking to the existing Bradwell Quarry was suggested but this would be subject to the agreement of other owners and/or operators which, as noted above, may not be forthcoming.
77. There would also be significant doubts about the suitability of the site for housing if prior extraction were to take place. If the full depth of sand and gravel were extracted this would leave a deep and steep-sided bowl shape¹⁶. The land could perhaps be re-profiled using material from within the site. However, I accept the appellant's calculation that this would still leave a

¹⁵ The County Council is the Mineral Planning Authority – the Council accepted the content of the SoCG

¹⁶ The minerals SoCG included a scenario in which only 5m depth of mineral would be extracted, leaving a smaller void. However, at the Inquiry no party suggested that, in practice, this would be a likely scenario.

depression up to 7m deep. That seems to me to be an unattractive proposition as a potential housing site. A further possibility explored at the Inquiry was that the excavation could be filled (or partially filled) with inert waste. That scenario would significantly increase the number of HGV movements imposed on the local road network. Moreover, there is some doubt regarding the availability of a sufficient supply of inert fill material.

78. Drawing together all of the above points, it appears to me that, on balance, prior extraction is unlikely to be a practical solution to the potential sterilisation of mineral reserves at this site. In my view there was sufficient information before the Inquiry to satisfy the policy requirement for prior extraction to be considered before permission is granted for surface development.
79. At the Inquiry there was discussion about whether a hypothetical planning application for prior extraction would be found to be in conflict with EMLP Policy S6. The disagreement between the parties on this point turned on alternative interpretations of the policy. However, as there is no such application before me it is not necessary for me to come to a finding in relation to Policy S6. My conclusions on prior extraction have been reached by reference to the evidence before the Inquiry on the practical considerations pertaining to the appeal site.
80. It is also appropriate to consider the timescale for prior extraction because it is relevant to the overall planning balance. At the Inquiry the Council's minerals witness accepted that excavation and infilling could take up to 10 years. Even if there were no infilling, extraction could take 4 to 6 years¹⁷. These figures were not disputed by the appellant's minerals witness and I see no reason to doubt them.

Conclusion on the fourth main issue

81. It is common ground that a mineral deposit of economic importance would be sterilised by the appeal scheme. However, the requirement of EMLP Policy S8 to consider prior extraction has been satisfied. If the proposal is found to be acceptable in principle then Policy S8 would not provide a reason for withholding planning permission.
82. The Council placed emphasis on paragraph 144 of the Framework, together with related advice in Planning Practice Guidance. This paragraph states that local planning authorities should give great weight to the benefits of mineral extraction. It is important to bear in mind that the EMLP was adopted in 2014 and post-dates the Framework. It can therefore be assumed that it is consistent with the Framework and that the EMLP does indeed give great weight to the benefits of mineral extraction. I return to the interaction between paragraphs 144 and 14 of the Framework in the concluding section of my decision.

Other matters

Social and economic considerations

83. There is currently a shortage of deliverable housing land in the District, with the identified supply being around 3.1 to 3.8 years. The Council and the appellant agreed that the appeal site could make a significant contribution to addressing this deficit. This is an important factor weighing in support of the

¹⁷ Inspector's note – these estimates were given by Ms Tomalin in answer to questions from Mr Carter

appeal. The Strategic Housing Market Assessment has identified a need for over 200 affordable dwellings per year, a figure which is well above the recent rate of delivery. The ability of the scheme to deliver 40% of the units as affordable housing is a further important positive factor.

84. Whilst it has been identified that health and education facilities are under pressure, appropriate mitigation would be secured through the UU. Provision of land for an early years/childcare facility within the appeal site would meet the needs of the appeal scheme and would also facilitate the provision of additional capacity. This would be beneficial to the wider community.
85. The scheme would bring economic benefits in terms of investment and employment during the construction phase. The new residents would generate additional expenditure within the local economy. Whilst there would be a loss of productive agricultural land, this would not be the best and most versatile land as defined in the Framework. My overall assessment is that the proposal would bring significant social and economic benefits to which I attach substantial weight.

Environmental considerations

86. The application was supported by an Ecological Appraisal and by the ES. The site is not subject to any nature conservation designations. Much of the site comprises arable and pastoral land of limited conservation value. One important hedgerow (as defined in the Hedgerow Regulations) has been identified, which would be retained and enhanced. The majority of the hedgerows would be retained although the substantial hedgerow along the southern boundary would need to be removed. Bat activity has been identified, particularly along the eastern boundary. There are also some notable breeding bird species. Other protected species have been considered and their presence is thought to be unlikely.
87. The illustrative alternative development framework shows how mitigation could be integral to the layout of the site, with linear habitat features being retained and enhanced with new green infrastructure. The attenuation basins could be designed to maximise their potential to enhance biodiversity. The Ecological Appraisal identifies specific mitigation measures in relation to bats and breeding birds.
88. The ES considers the impact of Bradwell Quarry and a proposed waste facility on the proposed houses, concluding that there would be no significant adverse effects.
89. Overall, the scheme would have some adverse impacts on habitats and species. However, I consider that appropriate mitigation could be secured through the reserved matters and through conditions. Subject to that, the adverse impacts are likely to be fully mitigated and there may be some modest gain to biodiversity. I conclude that impacts on biodiversity should not weigh significantly for or against the appeal.

Other matters raised in the representations

90. Those who spoke at the Inquiry and those who made written representations raised a number of concerns, many of which have been covered above. One point raised by several people is the scale of the proposed development, particularly when considered alongside other planned development at Silver

End. Attention was also drawn to the amount of housing under consideration at other locations in the surrounding area. Such concerns are understandable. Nevertheless, the Council's evidence explains why its current assessment of housing need is well above the level of need reflected in the CS. The evidence also sets out some of the measures the Council is taking to address the need for housing in the District.

91. Concerns were also expressed regarding highway safety and the capacity of the highway network. The application was supported by a transport assessment and there was a SoCG on highways matters. The illustrative access drawing shows one way in which the site could be provided with vehicular access to Western Road. I saw that, subject to the removal of the hedgerow, it would be possible to achieve the necessary visibility splays. The highway authority is satisfied that the proposed junctions would operate safely and I see no reason to take a different view. The SoCG notes that the traffic generation and distribution set out in the transport assessment is agreed by the highway authority and that the modelling of key junctions in the wider network has shown that there would not be any severe traffic impacts.

Conclusions

The development plan

92. The proposal relates to a greenfield site, outside the settlement boundary of Silver End. As such it would conflict with CS policy CS5 and BDLP Policy RLP 2. These policies seek to protect the countryside by restricting development outside settlement boundaries. It would also conflict with Policies RLP 100 and RLP 95 because there would be some harm to the settings of Bowers Hall and barns and the Silver End Conservation Area. I have not identified any conflict with Policies CS8, CS9, CS11, RLP 80, RLP 81 and RLP 90 which relate to landscape, historic environment, infrastructure, trees and design. Nor have I identified conflict with EMLP Policy S8 in relation to prior extraction of minerals. Nevertheless, the conflict with Policies CS5, RLP 2, RLP 100 and RLP 95 leads me to conclude that the proposal should be regarded as being in conflict with the development plan as a whole.

Other material considerations

93. The Council cannot demonstrate a 5 year supply of housing sites. In accordance with the Framework it follows that relevant policies for the supply of housing are not to be regarded as up-to-date. I note that the Council is taking steps to boost the supply of housing. Nevertheless, having regard to the current housing land supply position, I consider that only limited weight should be attached to the conflict with Policies CS5 and RLP 2.
94. BDLP Policies RLP 100 and RLP 95 seek to protect listed buildings, conservation areas and their settings. However, the policies are not consistent with the approach to the historic environment set out in the Framework which requires harm to the significance of heritage assets to be balanced against any public benefits. I therefore attach limited weight to the conflict with Policies RLP 100 and RLP 95 and greater weight to the advice in paragraph 134 of the Framework, which I turn to next.
95. The failure to preserve the setting of Bowers Hall and barns is a matter of considerable importance and weight, notwithstanding my conclusion that the

degree of harm would be minor. For the reasons given above, I consider that the effect of the appeal scheme on the setting of the conservation area, and hence on its significance, would be so limited that it should attract little weight in the planning balance. I attach substantial weight to the significant social and economic benefits which would flow from the delivery of new housing, including affordable housing. These public benefits would, in my view, be sufficient to outweigh the harm to the significance of the heritage assets. The proposal would therefore accord with the Framework insofar as it relates to the historic environment.

96. I now return to paragraph 144 of the Framework which I referred to under the fourth main issue. Amongst other matters, it states that local planning authorities should not normally permit other development proposals in mineral safeguarding areas where they might constrain future use for these purposes. For the reasons given above I consider that there would be significant practical difficulties in extracting the minerals from the appeal site. It appears to me that the appeal scheme is unlikely to constrain potential future use of the site for mineral extraction because mineral extraction is unlikely to happen in any event. I do not regard the appeal scheme as being in conflict with the Framework as it relates to minerals.
97. Having regard to my finding that the appeal site is not a '*valued landscape*', together with my conclusions on the historic environment and minerals, my overall conclusion is that this is not a case where there are specific policies of the Framework that indicate that development should be restricted. In these circumstances paragraph 14 of the Framework requires the adverse impacts to be weighed against the benefits.
98. For the reasons given above, I consider that the main adverse impacts would be the sterilisation of a mineral resource, the harm to the setting of Bowers Hall and barns and harm to the landscape. With regard to minerals, it is relevant to bear in mind that this is neither a preferred site for mineral extraction (as identified in the EMLP), nor is it a reserve site. Whilst the site is within a MSA, I attach only limited weight to this factor because prior extraction is unlikely to be a practical solution here. Moreover, even if it were a practical solution, the timescales involved would negate (or largely negate) the benefit of an early contribution to housing delivery.
99. I have concluded that the proposal would result in moderate harm to landscape character and that there would be some significant adverse visual impacts, particularly for users of FP53. However, the visual impacts would be localised and mitigation could be achieved as part of the detailed design of the scheme. I have commented above on the degree of harm to the setting of the listed buildings.
100. Turning to the benefits, I attach substantial weight to the social and economic benefits of the delivery of housing, including affordable housing. The provision of land for an early years/childcare facility would also be a benefit to which some weight should be attached. My overall assessment is that the adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. Consequently, material considerations indicate that permission should be granted notwithstanding the conflict with the development plan.

Conditions

101. The Council and the appellant submitted a Comparison Table of suggested conditions on which there was a wide measure of agreement. I have considered those suggestions in the light of Planning Practice Guidance and in some cases I have merged conditions or adjusted detailed wording to reflect that guidance and in the interests of clarity.
102. Conditions 1 to 3 are standard conditions for outline planning permissions. I have reduced the standard time periods because the ability to make an early contribution to housing delivery has been an important matter in this case. Conditions 4 and 5 limit the amount and height of the development to ensure that it is consistent with the parameters envisaged when the assessments supporting the application were carried out. Condition 6 requires details of levels in the interests of the character and appearance of the area. Condition 7 seeks compliance with parking standards to ensure that proper provision is made for the vehicles of the occupiers.
103. Condition 8 requires a scheme of archaeological investigation in order to protect the archaeological potential of the site. Condition 9, which deals with potential contamination, is needed to manage risks of pollution. Condition 10 requires a Construction Management Plan to be approved. This is necessary in the interests of highway safety, amenity, air quality and managing risks of pollution and flooding during the construction process. Condition 11 requires details of tree protection measures in the interests of biodiversity and the character and appearance of the area. Conditions 12 and 13 deal with the protection of habitats and nesting birds and condition 14 requires submission of a Landscape and Ecology Management Plan, all in the interests of protecting and enhancing the biodiversity of the site.
104. Condition 15 requires approval of details of noise mitigation to protect the living conditions of future occupiers. Conditions 16 and 17 deal with details of surface water drainage, and subsequent maintenance thereof, in the interests of managing risks of flooding and pollution. Condition 18 sets out matters to be included in the landscape reserved matters submission in the interests of the character and appearance of the area. Condition 19 requires approval of details of external lighting in the interests of mitigating impacts on biodiversity and protecting the character and appearance of the area. Condition 20 relates to details of refuse and recycling storage in the interests of sustainable development.
105. Condition 21 seeks to ensure that 40% of the units are delivered as affordable housing, in accordance with development plan policy and the Framework. The Council and the appellant agreed the principle of the condition but suggested alternative drafting. I have preferred the appellant's drafting which, whilst less prescriptive, appears to me to cover those matters which are important in terms of securing the policy objective of delivering affordable housing. I also note that the appellant's drafting is similar to conditions used in other appeal decisions which were before the Inquiry¹⁸.
106. Condition 22 requires the new access to be built as a first operation on site in the interests of highway safety. Condition 23 requires provision of a pedestrian/cycle link to Daniel Way. For reasons discussed more fully under the

¹⁸ CD11.2 – APP/C1625/A/13/2207324, condition 20 and CD11.5 – APP/X0360/2209286, condition 12

first main issue, I consider that this condition is necessary to ensure that the scheme would take up the opportunities for sustainable transport modes. Conditions 24, 25 and 26 require provision of bus stop enhancements, a footway along Western Road and a pedestrian crossing. These conditions are also needed in the interests of promoting sustainable transport modes. Condition 27 requires new planting to be set back from the visibility splays in the interests of highway safety. Condition 28 requires any diversion Order for FP53 (if needed) to be obtained at an early stage to ensure continued accessibility and safety for those using the path.

107. Some conditions require matters to be approved before the start of development. This is necessary for conditions 8 to 12 and 28 because these conditions address impacts arising during construction. It is necessary for conditions 14 to 16, 21 and 23 because these conditions may affect the design and/or layout of the development.

David Prentis

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Paul Shadarevian and Matt Lewin	of Counsel, instructed by Braintree District Council
He called	
Adrian Gascoyne FSA MCIfA	Head of Place Services, Essex County Council
Gill Wynne-Williams BA(Hons) DipLA CMLI	Managing Director, Wynne-Williams Associates
Claire Tomalin BSc MTP MRTPI	Principal Planner, Minerals and Waste Planning Team, Essex County Council
Terry Hardwick BSc MA MRTPI	Planning Consultant

FOR THE APPELLANT:

Martin Carter	of Counsel, instructed by Peter Dutton of Gladman Developments Ltd
He called	
Stephen Barry BSc MBA FRICS CGeol	Technical Director, Wardell Armstrong LLP
Gail Stoten BA(Hons) MCIfA FSA	Heritage Director, Pegasus Group
Jonathan Berry BA(Hons) DipLA CMLI AIEMA MArborA	Partner, Tyler Grange LLP
Peter Dutton BA(Hons) MCD MRTPI	Senior Planner, Gladman Developments Ltd

INTERESTED PERSONS:

Cllr Philip Hughes Cllr James Abbott BSc(Hons)	Member of Silver End Parish Council Member of Braintree District Council and Essex County Council
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Blaise Gammie	Education Department, Essex County Council
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Local residents
Robert Gordon
Jonathan Barker
Colin White

DOCUMENTS SUBMITTED AT THE INQUIRY

	<i>Documents submitted by the Local Planning Authority</i>
LPA1	Appearances
LPA2	Opening submissions
LPA3	Extract from EMLP
LPA4	Statement of Compliance with the CIL Regulations
LPA5	Open Spaces Action Plan
LPA6	Closing submissions
LPA6(a)	Bovis Homes & Miller Homes v SSCLG [2016] 2952 (Admin)
LPA6(b)	Watermead Parish Council v Aylesbury Vale DC [2016] EWHC 624 (Admin)

	<i>Documents submitted by the appellant</i>
GLD1	Appearances
GLD2	Opening submissions
GLD3	Draft UU (day 1)
GLD4	Draft UU (day 5)
GLD5	Closing submissions
GLD5(a)	Supreme Court Practice Direction
GLD5(b)	Forest of Dean DC v SSCLG [2016] EWHC 421 (Admin)

	<i>Agreed documents</i>
LPA/GLD1	Conditions – comparison table (day 1)
LPA/GLD2	Planning SoGC
LPA/GLD3	Landscape SoCG
LPA/GLD4	Note on calculations for re-profiling solutions
LPA/GLD5	Landscape sections
LPA/GLD6	Conditions – comparison table (day 5)

Other documents
Bundle of letters submitted by Cllr Abbott

DOCUMENTS SUBMITTED AFTER THE INQUIRY

GLD6	Completed Unilateral Undertaking dated 8 February 2017
GLD7	Addendum to closing submissions dated 17 February 2017

Schedule of conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 1 year from the date of approval of the last of the reserved matters to be approved.
- 4) The submission of reserved matters applications pursuant to this outline planning permission shall together provide for no more than 350 dwellings, public open space, landscaping, surface water attenuation and associated infrastructure.
- 5) No building erected on the site shall exceed three storeys in height, with the exception of any rooms within the roof space.
- 6) Any reserved matters application relating to the scale and layout of the development shall be supported by a plan or plans that provide full details of all finished floor levels of all buildings, expressed relative to existing site levels and Ordnance Datum.
- 7) Car parking across the development shall be provided in accordance with the minimum standards set out in the '*Essex Parking Standards: Design & Good Practice*' (2009), which are adopted by the local planning authority for the assessment of planning applications.
- 8) No development or preliminary ground works shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 9) No development shall take place until a comprehensive survey to assess the nature and extent of any contamination on the site has been carried out and a report of the survey findings together with a remediation scheme to bring the site to a suitable condition (in that it represents an acceptable risk) has been submitted to and approved in writing by the local planning authority. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with '*Model Procedures for the Management of Land Contamination, CLR 11*'. The remediation scheme shall be implemented and completed prior to the commencement of the development hereby approved.

Notwithstanding the above, should contamination be found that was not previously identified it shall be reported immediately to the local planning authority. The site shall be re-assessed in accordance with the above and a further remediation scheme shall be submitted for the approval in writing of the local planning authority. The further remediation scheme

shall be implemented and completed prior to the first occupation of any part of the development hereby approved.

Following completion of the remediation scheme a validation report undertaken by competent persons confirming that the remediation has been carried out in accordance with the documents and plans comprising the approved remediation scheme shall be submitted to the local planning authority.

- 10) No development shall take place, including any ground works or site clearance, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall provide for the following all clear of the highway:
- a. the parking of vehicles of site operatives and visitors
 - b. loading and unloading of plant and materials
 - c. safe access to/from the site
 - d. storage of plant and materials used in constructing the development
 - e. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - f. wheel and underbody washing facilities
 - g. measures to control the emission of dust and dirt during construction
 - h. a scheme for recycling/disposing of waste resulting from demolition and construction works
 - i. a scheme to control noise and vibration during the construction phase, including details of any piling operations
 - j. a scheme for safeguarding public rights of way
 - k. hours of demolition and construction work, including the operation of plant and machinery, the delivery of materials and the removal of waste
 - l. a scheme to minimise the risk of off-site flooding caused by surface water run-off and/or groundwater

The approved CMP shall be adhered to throughout the construction period.

- 11) No development shall take place, including any ground works or site clearance, until details of the means of protecting trees, shrubs and hedges within and adjacent to the site has been submitted to and approved in writing by the local planning authority. The details shall be generally in accordance with recommendations of the tree mitigation strategy set out in the Arboricultural Assessment submitted by FPCR dated November 2016 and shall include the protection of roots from injury or damage prior to or during the development works. The local planning authority shall be notified in writing at least 5 working days prior to the commencement of development on site. The approved means of protection shall be installed prior to the commencement of any building or engineering works or other activities on the site and shall be adhered to throughout the construction period.
- 12) No development shall take place, including any ground works or site clearance, until details of the means of protecting retained habitats on site have been submitted to and approved in writing by the local planning

- authority. The details shall be generally in accordance with the recommendations of the FPCR Ecology Appraisal. The approved means of protection shall be installed prior to the commencement of any building or engineering works or other activities on the site and shall be adhered to throughout the construction period.
- 13) No clearance of trees and shrubs in preparation for (or during the course of) development shall take place during the bird nesting season (March - August inclusive) unless a bird nesting survey has been submitted to and approved in writing by the local planning authority. If such a survey reveals the presence of any nesting birds, then no development shall take place within those areas identified as being used for nesting during the period specified above.
 - 14) No development shall commence until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP shall include the provision of nest/roost sites for bats and birds together with arrangements for long term habitat management. Development shall be carried out in accordance with the approved LEMP prior to the first occupation of any dwelling house hereby approved and shall be permanently retained as such thereafter.
 - 15) No development shall commence until a scheme for protecting the development from environmental noise has been submitted to and approved in writing by the local planning authority. The scheme shall be generally in accordance with the Noise Assessment produced by Wardell Armstrong dated July 2015. No dwelling hereby approved shall be occupied until any noise protection measures relevant to it have been carried out in accordance with the approved scheme.
 - 16) No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the local planning authority. If the development is undertaken in phases then no phase shall commence until a scheme for that phase has been so approved. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-ecological context of the development. The approved scheme shall be implemented in accordance with the timing/phasing arrangements embodied within it, or within any other period agreed in writing by the local planning authority, and shall thereafter be permanently managed and maintained as such.
 - 17) Prior to first occupation of any dwelling hereby permitted, a maintenance plan for the surface water drainage system shall be submitted to and approved in writing by the local planning authority. The plan shall identify who is responsible for the various elements of the surface water drainage system, the maintenance activities and frequencies required and the methods of reporting and logging such activities. Thereafter the surface water drainage system shall be permanently maintained in accordance with the approved plan.
 - 18) Any scheme of landscaping submitted pursuant to Condition 1 of this planning permission shall incorporate a detailed specification of all soft and hard landscaping works, including all fences and walls. This shall include details of all plant/tree types and sizes, planting numbers and distances, soil specification, seeding and turfing treatment, areas of

wildflower grassland, colour and type of material and method of laying for all hard-surface areas.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority.

All planting, seeding or turfing contained in the approved landscaping details shall be carried out in the first planting and seeding seasons after completion of the relevant phase of the development, unless otherwise previously agreed in writing by the local planning authority.

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the dwelling to which the hard landscaping relates.

Any trees and 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.

- 19) All applications for approval of reserved matters submitted pursuant to Condition 1 of this planning permission relating to the appearance, layout and scale of buildings (whether this is for the development as a whole or for a particular phase) shall be accompanied by a Lighting Scheme. The Lighting Scheme shall comprise a layout plan and manufacturer's technical details of the external lighting to be installed, including a schedule of luminaire types, mounting, height, aiming angles, luminaire profiles and energy efficiency. No dwelling shall be occupied until the external lighting relevant to that dwelling is available for use. All external lighting shall be installed, maintained and operated in accordance with the approved details and there shall be no other sources of external illumination unless otherwise agreed in writing by the local planning authority.
- 20) All applications for approval of reserved matters submitted pursuant to Condition 1 of this planning permission relating to the appearance, layout and scale of buildings (whether this is for the development as a whole or for a particular phase) shall be accompanied by details of the location and design of the refuse bins and recycling materials separation, storage areas and collection points. Where the refuse collection vehicle is required to go onto any road, that road shall be constructed to take a load of 26 tonnes. No dwelling shall be occupied until the refuse bins and, where applicable, storage areas and collection points, for that dwelling have been provided and are available for use.
- 21) No development shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

- i) the numbers, type and location on the site of the affordable housing provision which shall consist of not less than 40% of the dwellings
 - ii) the tenure, which shall be split 70% affordable rented and 30% intermediate with the dwellings distributed across the site (and if the scheme is undertaken in phases across each phase of development)
 - iii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing, with no more than 80% of the open market dwellings being occupied before the affordable housing is completed and available for occupation (this timing will apply to each phase if the scheme is undertaken in phases)
 - iv) the arrangements for the transfer of the affordable housing to a Registered Provider or for the management of any affordable housing if no Registered Provider is involved
 - v) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing including arrangements (where appropriate) for the subsidy to be recycled for alternative affordable housing provision
 - vi) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced
 - vii) that the affordable homes are built to the standards set by the Homes and Communities Agency at the time of development
- 22) The site access (or accesses) shall be constructed to at least base course level, with the provision of suitable visibility splays, in accordance with a detailed design which has been approved as a reserved matter pursuant to Condition 1 before the commencement of any other part of the development hereby approved.
- 23) No development shall commence until a scheme for the provision of a pedestrian/cycle way linking the pedestrian/cycle routes within the site to Daniel Way has been submitted to and approved in writing by the local planning authority. The pedestrian/cycle way shall be provided in accordance with the approved scheme prior to the occupation of any dwelling hereby approved (or, if the development is undertaken in phases, in accordance with an implementation programme forming part of the approved scheme) and shall thereafter be permanently retained as such.
- 24) Before first occupation of any dwelling hereby approved, the existing bus stop on the eastbound carriageway of Western Road shall be relocated and upgraded in accordance with a detailed design and specification to be submitted to and approved in writing by the local planning authority. The relocated bus stop shall be in a position outside the visibility splays and the detailed design and specification shall provide for a raised kerb (to provide level access), a shelter, a flag, real time passenger information and road markings. Before first occupation of any dwelling hereby approved, the bus stop opposite the site on the westbound carriageway of Western Road shall be upgraded by the provision of real time passenger information in accordance with a specification to be submitted to and approved in writing by the local planning authority.
- 25) Before first occupation of any dwelling hereby approved, a 2m wide footway shall be provided across the Western Road frontage of the site to

the west of any new access to be provided into the site to link to the existing footway on Western Road to the west of the site. If there is to be more than one access into the site, the required footway shall extend between the access points to be formed. The footway shall be provided in accordance with a detailed design and specification to be submitted to and approved in writing by the local planning authority and shall make appropriate connection with Public Right of Way 53 Silver End.

- 26) Before first occupation of any dwelling hereby approved, a pedestrian crossing on Western Road shall be provided as part of the access arrangements to be approved as a reserved matter pursuant to Condition 1. This shall include a pedestrian refuge, with associated dropped kerbs and tactile paving, and shall be located in the vicinity of the access (or accesses) to be provided and the bus stops serving the site.
- 27) Any new boundary planting to the Western Road frontage of the site shall be planted a minimum of 1 metre back from the highway boundary and from the line of any visibility splay required to be provided to serve the access (or accesses) into the site, whichever is the further.
- 28) In the event that it should be necessary to divert Public Right of Way 53 Silver End, no development hereby approved shall be commenced until such time as an Order securing the diversion of the existing definitive right of way has been secured.

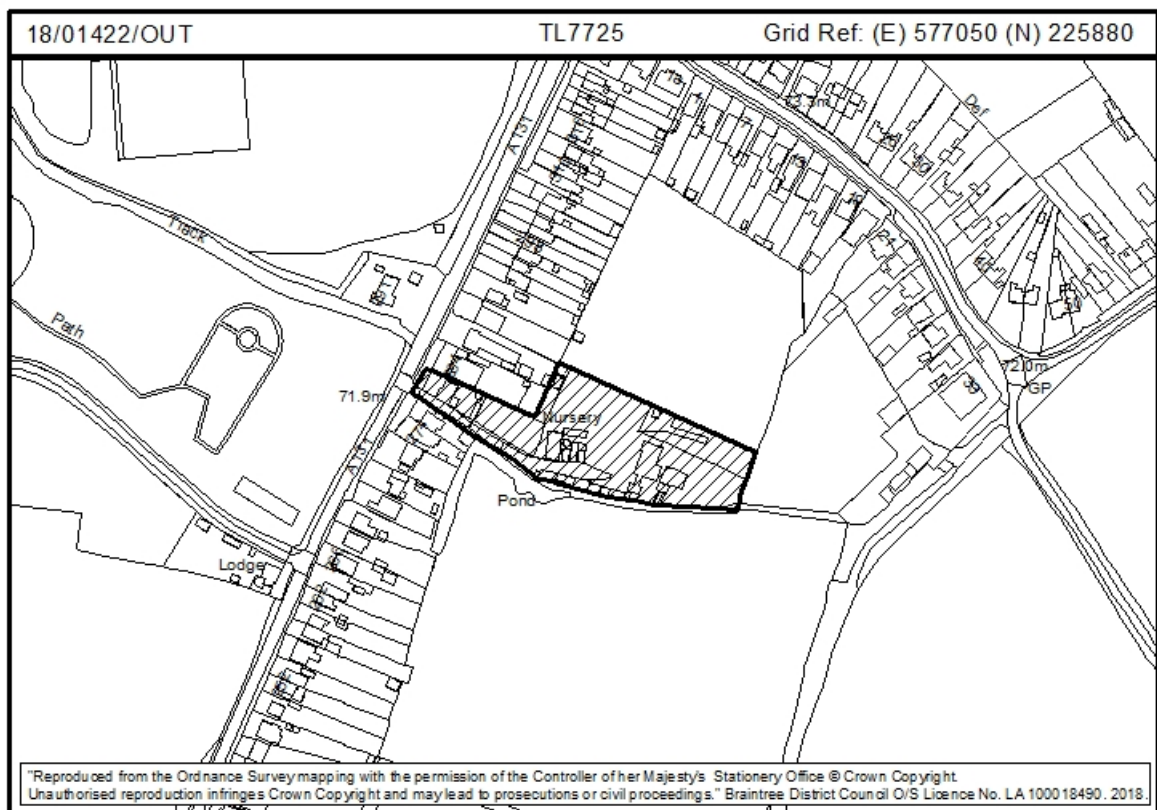
End of conditions

AGENDA ITEM NUMBER 5f

PART A

APPLICATION NO: 18/01422/OUT
DATE VALID: 27.07.18
APPLICANT: Mr Peter Stant
Broadfield Nursery, Broad Road, Braintree, Essex, CM7 5NW
AGENT: M French
Glebe Cottage, Kelvedon Road, Little Braxted, Essex, CM8 3ES
DESCRIPTION: Outline application with some matters reserved except access and scale for 9 No. residential dwellings with associated works.
LOCATION: Broadfield Nursery, Broad Road, Braintree, Essex, CM7 5NW

For more information about this Application please contact:
Melanie Corbishley on:- 01376 551414 Ext. 2527
or by e-mail to: melanie.corbishley@braintree.gov.uk



SITE HISTORY

04/00227/FUL	Erection of garage	Granted	24.05.04
88/01706/P	Demolition of existing building and erection of dwellinghouse and garage	Granted	27.10.88
92/01004/FUL	Construction of vehicular access	Granted	24.09.92

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 Publication 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 joint North Essex-Authorities (NEAs) have received a post hearing letter dated 8th June 2018. This letter outlined a number of short comings about the Garden Communities in the Section 1 Plan relating to transport infrastructure, employment, viability, and the sustainability appraisal.

The letter has outlined 3 options for how to proceed with the Section 1 Publication Draft Local Plan.

- Option 1 – Remove the Garden Communities proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time.
- Option 2 – The NEAs carry out further work on evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2 examinations. This option would result in the suspension of the examination, and the part 2 examination could not take place.
- Option 3 – Withdraw Section 1 and Section 2 of the Plans from examination and to resubmit them with any necessary revisions, after carrying out required further work on the evidence base and Sustainability Appraisal, and the relevant consultation and other procedures required by legislation.

A further Supplementary Post-hearing letter dated 27th June has also been received. This letter provided the Inspectors views on policy SP3 of the Section 1 Plan which covers housing requirements. The letter concludes that the housing requirement figures for each of the NEAs set out in policy SP3 is its respective objectively-assessed housing need, which for Braintree is 716 dwellings per annum.

The North Essex Authorities have agreed to produce further evidence to present to the Planning Inspector on the section 1 Local Plan. The authorities will need to agree with the Planning Inspector a timetable for the completion of this work, but this will result in a delay to the adoption of the Local Plan.

In accordance with paragraph 48 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 48 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
RLP53	Generators of Travel Demand
RLP56	Vehicle Parking
RLP90	Layout and Design of Development

Braintree District Local Development Framework Core Strategy 2011

CS5	The Countryside
CS7	Promoting Accessibility for All
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
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development

Other Material Considerations:

Site Allocations and Development Management Plan
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 application is being reported to the Planning Committee at the request of the Chairman and Vice-Chairman of the Planning Committee.

SITE DESCRIPTION

The application site is the former Broadfield Nursery located on Broad Road, Braintree. The nursery business ceased in August 2015. The application site contains a bungalow and a number of former nursery buildings and a two storey residential dwelling (No.282) which fronts Broad Road. A public footpath runs along the southern edge of the site.

The occupation of the bungalow is restricted by condition 3 of P/BTE/0875/83/OT/B, which restricts the occupation to persons wholly or mainly employed or last employed locally in agriculture or forestry.

The front portion of the site, containing No.282 and the existing access to the nursery, lies within the Town Boundary of Braintree. The larger portion of the site lies beyond the Town Boundary and is within the countryside.

PROPOSAL

The application is seeking outline permission for the erection of 9 dwellings (net gain of 7) with associated works which includes the demolition of the existing bungalow, remaining nursery buildings and No.282 Broad Road.

Details regarding access and scale have been submitted for consideration, and the details indicate that the dwellings would be two storey. Following the demolition of No.282, a new access to serve the new dwellings would be created.

CONSULTATIONS

ECC Highways - All housing 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 the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions regarding the submission of a Construction Management Plan, construction of the new road, provision of a 2m wide footway, residential travel packs and car parking provision.

Ramblers Association - No comments received.

Open Spaces Society - No comments received.

BDC Environmental Health - No objection subject to conditions regarding construction hours, no burning on the site, submission of a dust and mud control management scheme and no piling until a system of piling and resultant noise and vibration levels is approved.

BDC Waste Services - No comments.

REPRESENTATIONS

18 objections received making the following comments:

- Noise and disturbance during construction works
- Site located outside the town boundary
- Application is seeking to circumvent the restrictions of the earlier permission.
- Nursery business has not been marketed, nor has the bungalow/site been marketed as a dwelling in its own right.
- Concerns that this could result in a whole housing estate behind the existing houses in Broad Road with a loss of privacy and would set a precedent.
- Concerns about safety of new access onto a busy road
- Loss of woodland on adjoining site
- Increased traffic on the road network
- Concern about impact on surface water, wildlife and flooding.
- Backland development

1 representation received in support making the following comments:

- We do not have any objection to this planning application.
- It would be nice to see the land used for housing which would be of benefit for the local area.

REPORT

National Planning Policy Framework (NPPF) 2018

As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision-makers at every level should seek to approve applications for sustainable development where possible.

Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, paragraph 59 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 73 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.

In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan.

The Development Plan

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

The application site is located outside of a designated village envelope/town development boundary and as such is located on land designated as countryside in the Local Plan Review (2005) and the Core Strategy (2011).

Policy RLP2 of the Adopted Local Plan states that new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside these areas countryside policies will apply. Policy CS5 of the Adopted Core Strategy specifies that development outside 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.

The application site is not proposed for allocation for development in the emerging Local Plan. The proposed development is therefore contrary to the Draft Local Plan, in particular Policy LPP1 of the Draft Local Plan which states that outside development boundaries development will be strictly controlled to uses appropriate to the countryside.

The proposed development is therefore considered to be contrary to the Development Plan and the emerging Draft Local Plan.

5 Year Housing Land Supply

In order to determine whether a given application for a housing scheme should be granted contrary to the provisions of the Development Plan, the Council needs to understand the current housing land supply situation.

In accordance with the PPG, the Council published the housing land supply situation in its Annual Monitoring Report dated 31 December 2017. Following best practice, the Council updated its position on the basis of completion rates in March and June 2018.

However, in July 2018, the Government published a revised NPPF. The Council is bound to take into account this revised version of national policy by s.70(2)(C) Town and Country Planning Act 1990.

By paragraph 73 NPPF, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer. 'Local housing need' is defined as the 'standard method'. The new standard methodology applies a 3 step process as follows:

- Step 1 is the calculation of housing need from the household projections – this derives a baseline target. When new projections are published (usually every 2 years), these should be taken into account and the target recalculated. The 2016 based household projections were published on 20 September 2018;
- Step 2 is an adjustment to take account of affordability, using the most recent published local affordability ratio – this derives a target number of dwellings per annum. New affordability ratios are planned to be published every year. The most recent (2017) local affordability ratios were published in Spring 2018;
- Step 3 caps the level of any increase to 40% over the baseline target. The cap is only applicable if the target number of dwellings per annum, derived from steps 1 and 2, exceeds the baseline target + 40%.

The 5 Year Housing Land Supply target is then calculated as follows: target number of dwellings per annum x 5 years + appropriate buffer (the Council currently accepts that the appropriate buffer for the Braintree District is 20% as required by the NPPF as there has been a significant under-delivery of housing over the previous 3 years).

Since 31st March 2017 the Council has produced quarterly updates on the 5 Year Supply Assessment to assist in the consideration and determination of planning applications. To date, and based on these assessments, the Council within both Committee and Delegated reports, has acknowledged that it is

unable to demonstrate a 5 year Housing Land Supply, and as such Paragraph 11 of NPPF (previously Paragraph 14 of the NPPF 2012) is engaged. However, applying paragraph 73 NPPF to its supply, the latest land supply update statement indicates a 5.83 years' supply.

That said, it is important to note that the latest update position is not an annual monitoring report, based on a comprehensive assessment of sites, in accordance with the revised definition of 'deliverable' in the NPPF. That will be done within the 2018 annual monitoring report which is due to be published on 31st December 2018.

In addition, the Council's latest 5 year supply figure of 5.83 years (as at 31st March 2018) must also be considered in the context of the emerging Publication Draft Local Plan. The Publication Draft Local Plan which currently sits with the Inspector must be able to demonstrate a 5 Year Housing Land Supply in order for it to be found sound and adopted. Unlike the current methodology for calculating 5 year supply which takes account of housing undersupply in the standard methodology formula, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years. This results in a higher 5 year supply requirement.

Whilst the presumption in paragraph 11 of the NPPF is not engaged (due to the presence of a 5 Year Housing Land Supply), until the Council has ascertained that it can demonstrate a robust supply within its annual monitoring report and given the Local Plan context described above, it is considered that only moderate weight can be attached to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy). This will need to be considered as part of the overall planning balance, along with any benefits and harms identified within the detailed site assessment considered below.

SITE ASSESSMENT

Settlement Hierarchy and Sustainability of the Site

Paragraph 78 of the NPPF states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

The strategy set out in the Publication Draft Local Plan is to concentrate growth in the most sustainable locations - that is, by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to nearby shops, services and employment opportunities. This means for the new Local Plan: "That the broad spatial strategy for the District should concentrate

development in Braintree, planned new garden communities, Witham and the A12 corridor, and Halstead”.

Policy CS7 of the Adopted Core Strategy states that future development will be provided in accessible locations to reduce the need to travel.

The vast majority of the application site lies in the countryside, adjacent to the Town Boundary of Braintree. Despite this location, it is considered that the site is poorly related to the centre of Braintree where services and facilities could be found. It is accepted that there is a reasonable bus service but that future residents will be predominantly reliant upon travel by car for most of their everyday needs, given the significant walking distances between the site and central Braintree and Bocking. Therefore it is concluded that the location of the site

Previously Developed Land

Paragraph 177 of the NPPF states that ‘Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or ‘brownfield’ land’.

The NPPF contains a definition of Previously Development Land (PDL). It states:

‘Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.’

The site contains two permanent dwellings, a number of commercial buildings which relate to the former nursery use and a large area of concrete hardstanding.

Therefore it is concluded that the application site does contain land that would be considered to be ‘Previously Developed Land’; which weighs in favour of the proposal.

Paragraph 177 is subject to footnote 44 which states ‘Except where this would conflict with other policies in this Framework’.

As considered in the sections below, it is considered that the proposal conflicts with other Policies from the Development Plan in terms of character

and it is therefore considered that the proposal conflicts with Paragraph 79 and footnote 44 of paragraph 177 of the NPPF. This is discussed further below.

Character, Design, Appearance and Layout

Paragraph 124 the NPPF highlights that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

In addition to this, Policy RLP90 of the Adopted Local Plan 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. Policy LPP55 of the Draft Local Plan 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 Council has adopted the Essex Design Guide as a Supplementary Planning Document. This indicates that dwellings with two bedrooms should be provided with a private rear garden of 50sq.m or more, and three bedroom dwellings should be provided with 100sq.m or more. Furthermore, Policy RLP56 of the Adopted Local Plan requires that sufficient vehicle parking should be provided for all new development in accordance with the Essex County Council Vehicle Parking Standards 2009.

Scale is a matter for consideration at this time, and details have been submitted that indicates all of the dwellings would be two storey houses. In isolation it is considered that this type of dwelling and the resulting scale of the development would appropriate, given the nature of housing along Broad Road.

However the character of development along this stretch of Broad Road and Lyons Hall Road is one of linear residential development where properties front the road and have generous front and back gardens. The introduction of a residential development of 9 dwellings on the former nursery site would be completely at odds with this prevailing character and would introduce backland development.

Taking into account the above, it is considered that not only would the site be outside the town boundary, but the development itself by virtue of developing in depth would be alien and out of keeping with the sporadic linear pattern of

development on the southern side of Broad Road. It is considered the development would therefore cause harm to the character and appearance of the area.

In terms of the overall layout of the proposed dwellings, the proposed garden amenity sizes and parking can all be accommodated in accordance with the above standards.

In summary, it is considered that the proposed development by virtue of its form and layout would be out of keeping with the pattern of development and have a detrimental impact upon the character and appearance of the area.

Impact on Neighbour Amenity

The NPPF requires a good standard of amenity for all existing and future occupiers of land and buildings. Policy RLP90 of the Adopted Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. Pages 70-73 of the Essex Design Guide also refer to set back-to-back and back-to-side distances to ensure that neighbouring amenity is protected as far as possible. This includes a 25m overall back-to-back separation, while a dwelling should be 15m from a common boundary with the rear property. At an angle of 30 degrees or more, these distances may be able to be reduced.

The layout of the development is a matter for consideration at the reserved matters stage, however an illustrative layout plan has been submitted for information. As outlined above the scale of dwellings would be two storey and given the indicative positioning and separation with neighbouring properties Officers are satisfied that the site is capable of accommodating 9 dwellings without materially harming the amenity of neighbouring occupiers.

Highway Issues

Paragraph 109 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development on the road network would be severe.

The plans indicate that No. 282 Broad Road would be demolished to make a wider access to serve the nine dwellings.

Having regard to the National Planning Policy Framework, particularly paragraph 109, the Highway Authority has reviewed the planning application against its own Development Management Policies to ensure the proposal site can be accessed safely, any additional trips would not be detrimental to highway safety and capacity and to ensure as far as possible the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

The Highway Authority has used its own knowledge of the highway network and information it holds in this regard to ascertain whether the network would

be able to accommodate the proposal, further what, if any, improvements would be needed. Subject to the content of its recommendation as detailed above, the Highway Authority is satisfied the proposal would not be detrimental to highway safety.

A number of letters have raised concerns regarding the safety of Broad Road and the impact the additional vehicular movements will have on it. Although there are objections from third parties regarding the safety of Broad Road, the Highway Authority has confirmed that the proposals are acceptable from a highway and transportation perspective and the proposals are therefore considered to be in accordance with Policy RLP53 of the Adopted Local Plan and Policy LLP44 of the Draft Local Plan.

Habitats Regulations Assessment /The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy

Natural England have published revised interim guidance on 16th August 2018 in connection with the emerging strategic approach relating to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations.

In accordance with the revised interim guidance an appropriate assessment has been completed for this application, as it falls within the threshold of a scheme of 99 residential units or less and is located within the updated Zones of Influence. Where an appropriate assessment concludes that a likely significant effect would occur, the Local Planning Authority is required to secure a financial contribution towards off site mitigation at the identified natura 2000 sites to mitigate the impact of the development upon these sites.

However, whilst the appropriate assessment of the Local Plan has identified a likely significant effect for all residential development in-combination with other plans and projects, the amount of minor and major development proposals for 1-99 houses that is likely to be granted planning permission prior to the adoption of the RAMS, which will require financial contributions for all residential proposals, is considered to be de minimis considering that the RAMS will be dealing with the in-combination effects of housing growth across Essex over a 15 year period. As such, it is concluded that this proposal would not have a likely significant effect and therefore no financial contribution is requested in this case. Notwithstanding the above, at the present time there are no specific costed projects identified and no clear evidence base to give the Local Planning Authority any ability to impose such a requirement for a proportionate, evidence based contribution.

Conclusion and Planning Balance

As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this

case the application site is located outside of a designated village envelope/town development boundary and is therefore located within the countryside, where new development is 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. There is therefore a presumption that the application should be refused unless there are material reasons to grant planning permission.

Although the Council can currently demonstrate a 5 Year Housing Land Supply (5.83 years as at 31st March 2018), this latest update position, as identified above, is not an annual monitoring report based on a comprehensive assessment of sites in accordance with the revised definition of 'deliverable' in the NPPF. Therefore the current position of 5.83 years does not represent a robust housing supply position. In addition, and as highlighted above, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years, which will on adoption of the Local Plan, result in a higher 5 Year Housing Land Supply requirement.

The Government's policy objective of significantly boosting the supply of homes as highlighted in Paragraph 59 of the NPPF is an important material consideration in this case, however this in itself is not considered to be sufficient to outweigh the conflict with the Adopted Development Plan as identified above. In contrast, the above factors which affect the robustness of the Council's current 5 Year Housing Land Supply, are also considered to be important material considerations, which in Officers view, justify attributing only moderate weight to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy).

As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives): an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure); a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

It is acknowledged that the provision of 7 market houses would bring some limited social and economic benefits. It is also recognised that the building of houses generates economic benefits through the construction process and also the spending power of the residents. This is applicable to housing development generally and the benefit should be given moderate weight. However despite being located adjacent to the Town Boundary of Braintree, it is considered that the site is poorly located to the centre of Braintree where services and facilities could be found. It is accepted that there is a reasonable bus service but that future residents will be predominantly reliant upon travel by car for most of their everyday needs. It is considered that the proposed development of the site would be out of keeping with the established pattern of development in the locality and would have a detrimental impact upon the character and appearance of the area and in particular the existing linear form of development along Broad Road.

When considering the planning balance and having regard to the benefits as identified above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of this proposal do not outweigh the harm of the proposal and the conflict with the Development Plan. Officers therefore consider the proposed development does not constitute sustainable development and recommend that planning permission is refused.

RECOMMENDATION

It is RECOMMENDED that the following decision be made:
Application REFUSED for the following reasons:-

- 1 The area of the site to be developed is located in the countryside, outside the Town Boundary of Braintree as identified in the adopted Local Plan Review and adopted Core Strategy. The proposal would introduce development of a layout and form that would pay little regard to its context and markedly at odds with sporadic linear pattern of development on the southern side of Broad Road, to the detriment of the character and appearance of the local area. Furthermore the site is poorly located to essential services in Braintree and Bocking, placing reliance on the use of the private motor car.

The proposed development would fail to secure sustainable development contrary to the provisions of the National Planning Policy Framework, contrary to Policies RLP2 and RLP90 of the Braintree District Local Plan Review (2005), Policies CS5, CS7 and CS9 of the Braintree District Core Strategy (2011) and Policies LLP1, LLP50 and LPP55 of the Publication Draft Local Plan (2017).

SUBMITTED PLANS

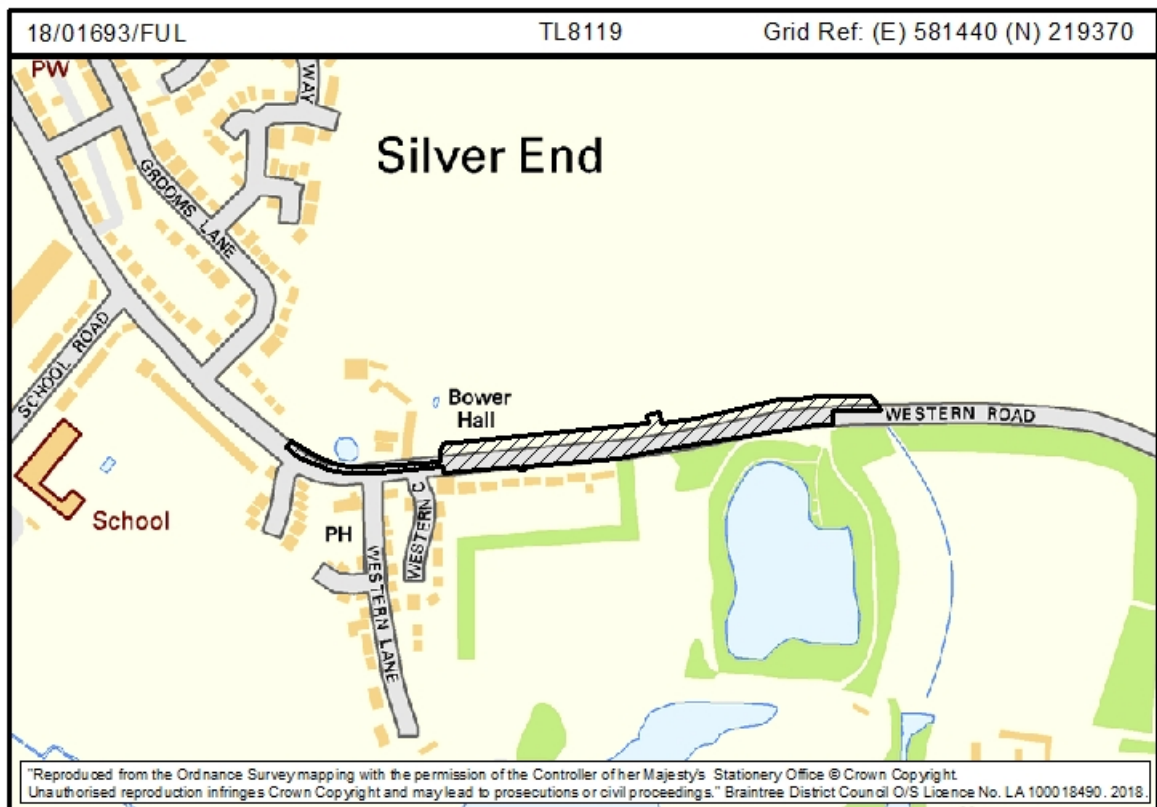
Location Plan	Plan Ref: 911/STA/10
Site Plan	Plan Ref: 911/STA/11
Proposed Plans	Plan Ref: 911/STA/12
Proposed Plans	Plan Ref: 911/STA/13
Site Selection Plan	Plan Ref: 911/STA/14

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

PART A

APPLICATION NO: 18/01693/FUL
DATE VALID: 18.09.18
APPLICANT: Redrow Homes Ltd
C/O Agent
AGENT: Strutt And Parker
Miss Katherine Dove, Somerset House, 222 High Street ,
Guildford, GU1 3JD
DESCRIPTION: Creation of a permanent vehicular access from Western
Road into Land North of Western Road, Silver End and
creation of drainage features.
LOCATION: Land Off, Western Road, Silver End, Essex

For more information about this Application please contact:
Mr Neil Jones on:- 01376 551414 Ext. 2523
or by e-mail to: neil.jones@braintree.gov.uk



SITE HISTORY

15/00280/OUT	Outline planning permission for up to 350 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation. With all matters to be reserved.	Appeal Allowed	20.04.16
18/01342/FUL	Creation of a field access from Western Road into Land North of Western Road, erection of gate posts, gate and fence.	Pending Decision	
18/01701/DAC	Application for approval of details reserved by condition 6 of approved application 15/00280/OUT	Pending Consideration	
18/01734/DAC	Application for approval of details reserved by condition 12 of outline planning permission 15/00280/OUT.	Pending Consideration	
18/01737/DAC	Application for approval of details reserved by condition 9 of outline planning permission 15/00280/OUT.	Pending Consideration	
18/01739/DAC	Application for approval of details reserved by condition 14 of approved application 15/00280/OUT	Pending Consideration	
18/01742/DAC	Application for approval of details reserved by condition 15 of approved application 15/00280/OUT	Pending Consideration	
18/01743/DAC	Application for approval of details reserved by condition 16 of approved application 15/00280/OUT	Pending Consideration	
18/01744/DAC	Application for approval of details reserved by condition 20 of approved application 15/00280/OUT	Pending Consideration	

18/01745/DAC	Application for approval of details reserved by condition 21 of approved application 15/00280/OUT	Pending Consideration
18/01747/DAC	Application for approval of details reserved by condition 18 of approved application 15/00280/OUT	Pending Consideration
18/01751/REM	Application for approval of Reserved Matters (Appearance, Landscaping, Layout and Scale) following the grant of outline planning permission ref: 15/00280/OUT - Erection of 350 dwellings (including 40% affordable housing), creation of internal roads, footpaths, open space, SuDS features, a sub station, a pumping station and groundworks.	Pending Consideration
18/01932/DAC	Application for approval of details reserved by condition 8 of outline planning permission 15/00280/OUT.	Pending Consideration

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 Publication 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 joint North Essex-Authorities (NEAs) have received a post hearing letter dated 8th June 2018. This letter outlined a number of short comings about the Garden Communities in the Section 1 Plan relating to transport infrastructure, employment, viability, and the sustainability appraisal.

The letter has outlined 3 options for how to proceed with the Section 1 Publication Draft Local Plan.

- Option 1 – Remove the Garden Communities proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time.
- Option 2 – The NEAs carry out further work on evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2 examinations. This option would result in the suspension of the examination, and the part 2 examination could not take place.
- Option 3 – Withdraw Section 1 and Section 2 of the Plans from examination and to resubmit them with any necessary revisions, after carrying out required further work on the evidence base and Sustainability Appraisal, and the relevant consultation and other procedures required by legislation.

A further Supplementary Post-hearing letter dated 27th June has also been received. This letter provided the Inspectors views on policy SP3 of the Section 1 Plan which covers housing requirements. The letter concludes that the housing requirement figures for each of the NEAs set out in policy SP3 is its respective objectively-assessed housing need, which for Braintree is 716 dwellings per annum.

The North Essex Authorities have agreed to produce further evidence to present to the Planning Inspector on the section 1 Local Plan. The authorities will need to agree with the Planning Inspector a timetable for the completion of this work, but this will result in a delay to the adoption of the Local Plan.

In accordance with paragraph 48 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 48 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
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
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

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
LPP17	Housing Provision and Delivery
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP56	Conservation Areas
LPP60	Heritage Assets and their Settings
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

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to the Planning Committee as the application is considered to be of significant public interest. In addition Silver End Parish Council has objected to the application, contrary to the recommendation of Planning Officers.

SITE DESCRIPTION

The application site comprises land that includes approximately 350 metres of Western Road, to the east of Bower Hall. The red line encompasses the existing carriageway and footway on Western Road, the hedge immediately to the north of Western Road and a strip of land at the southern end of an arable field. The application also extends past Bower Hall to opposite Bowers Close.

As denoted by the blue line on the location plan this application site is part of a larger site owned by the applicant. This larger site has outline planning permission for up to 350 residential dwellings, including 40% affordable housing, introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation. Outline planning permission was granted at appeal in March 2017 (reference 15/00280/OUT). A copy of the appeal decision is appended to the Committee Report.

The larger site comprises two fields separated by a ditch and hedgerow, measuring in total around 16ha. The northern field has been used as a horse paddock with the southern field in arable production. There is a late 20th century residential development to the west. Bowers Hall, a Grade II listed farmhouse set in a large curtilage, adjoins the south west corner of the site. To the south the site has a frontage to Western Road, which is bounded by a substantial hedgerow. There is a ribbon of 20th century development fronting the southern side of Western Road for around half the length of the appeal site frontage. There is open farmland to the east and north east and, to the North West, there are extensive residential curtilages of properties fronting Sheepcotes Lane.

The site falls gently from west to east towards a watercourse along the eastern boundary. Public Footpath 53 runs close to Western Road along the full extent of the southern edge of the site inside the boundary hedge. Beyond the site it continues eastwards across the next field before turning north.

PROPOSAL

This planning application seeks full planning permission for the creation of a new priority / T-junction on Western Road to provide a permanent vehicular access into the site known as '*Land North of Western Road*'. The proposed access is intended to provide the sole vehicular access to the site that has outline planning permission for development of up to 350 dwellings.

It is proposed that the access will be formed in a location to the east of No.65 Western Road. The access road will be 5.5 metres wide with 2m wide footway. The road and footway are proposed to be surfaced with black tarmac. As part of the works to form the access the carriageway will be widened and the carriage realigned to create a 'ghosted right hand turn lane'.

To provide the required visibility splays the application also proposes the removal of the existing hedgerow along the frontage of the site on Western Road.

The application also proposes the following highway works in addition to the vehicular access:

- 2 m wide footway on the northern side of Western Road from the proposed vehicular access to connect into the existing footpath to the west of Bowers Hall, opposite Bowers Close;
- a pedestrian refuge island in the centre of Western Road and the west of the proposed access point into the site (broadly opposite no.63 & 65);
- Bus stop improvements on Western Road.

The application is accompanied by plans and technical documents which include:

Access Plan

Arboricultural Impact Assessment

Biodiversity Survey and Report

Drainage Plan

Hedgerow & Landscape Strategy

Landscaping Scheme

Transport Note, and Designers Response to Stage One Highway Safety Audit

CONSULTATIONS

BDC Environmental Health – No objection subject to condition relating to construction activity. The proposed location of the access is noted to not be sited where existing residential properties would be directly opposite. Comments made in respect of possible proposals for haul road in this location.

ECC Highways – No objection or comments.

Essex Fire & Rescue Service – No objection - advise that Building Regulations process will need to demonstrate adequate access for Fire & Rescue Service and water supply through fire hydrants.

Silver End Parish Council – Objection. The Parish state that the hedge must not be removed in its entirety as it is a significant feature of the approach to the village. Its loss will be detrimental to the environment as it contains live elm which is too small to be affected by Dutch Elm Disease. Additionally, it is a habitat for wildlife, including known regular flights of bats. A more

sympathetic approach should be employed such as the translocation of the hedge on Rickstones Rd. The Inspectorate's decision is being ignored by not allowing consultation with SEPC. This is a garden village and should have garden features such as hedges.

REPRESENTATIONS

Fifteen letters of representation have been received objecting to the proposal on the following grounds:

- The development is not acceptable in principle – village infrastructure is insufficient and too many houses have been approved for the village;
- Residents' concerns about the removal of the hedge have been ignored;
- Access in this location will cause traffic congestion and parking restrictions may be required along Western Road;
- The proposed access would not be in a safe location;
- Access should be constructed from Parkgate Corner to allow retention of the hedge;
- The hedge is healthy and is not dying as the applicant has stated and contains a wide range of species and is of a considerable age;
- The loss of hedge will destroy a key feature as you enter the village;
- The hedge should be retained to protect residents living opposite the site from the forthcoming development;
- The hedge would screen the development of housing that will be built on the site;
- The applicant has understated the value of the hedge as a habitat and foraging area for wildlife. The access would be close to well established bee hives and the loss of hedge will reduce their ability to collect nectar. The hedge is also used by hedgehogs (for hibernation) as well as birds and butterflies. There are many bats in this area and the hedge provides a foraging corridor. Furthermore the loss of hedge will expose the field beyond to street lighting;
- The extent of the hedge that would need to be removed is excessive and is unnecessary as it could be translocated, or trimmed back.

REPORT

Principle of Development

This application proposes works which are intended to provide vehicular access to the land to the north of the application site. As set out above the site identified with a blue line has Outline Planning Permission for residential development.

As Members will be aware Outline Planning Permission for development of up to 350 dwellings on land north of Western Road was granted by a Planning Inspector. The Council opposed the grant of planning permission but following a 5-day Public Inquiry the Planning Inspector concluded '*My overall*

assessment is that the adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. Consequently, material considerations indicate that permission should be granted notwithstanding the conflict with the development plan'. As such the principle of residential development on this site has been accepted.

As always in assessing this application it is necessary to assess the proposal against relevant planning policies, however when making that assessment it is necessary to consider whether what is proposed in this application conflicts with the proposals that the Planning Inspector concluded were acceptable.

Members will note that this application is for full planning permission and is not an application for approval of reserved matters. The applicant is keen to commence development on the site and to start delivering housing, something that the Council wishes to support now that a Planning Inspector has approved the principle of residential development on the site. The applicant has made an application for approval of the non-access Reserved Matters (landscaping, layout, scale and appearance of the development) and that application is pending consideration by the Council (ref. 18/01751/REM). By making a separate application to construct the vehicular access the applicant hopes to obtain planning permission that will allow those works to be undertaken without potentially being held up whilst their application to agree all the other Reserved Matters is considered by the Council. If this planning application is approved this will help bring forward the delivery of housing on this site.

Highway Considerations

There is currently no vehicular access to the site off Western Road, although a separate planning application has been submitted to create a field access to allow site investigation prior to the development of the site.

The Outline Planning Permission was granted with all matters reserved, including access, and initially the Highway Authority objected to that application as it had not been demonstrated that safe vehicular access could be provided to the site. At the inquiry the appellants produced illustrative access details showing one way in which the site could be provided with two vehicular access points to Western Road. The Highway Authority withdrew their objection prior to the inquiry and Inspector agreed that the illustrative material submitted demonstrated that safe access could be provided off Western Road.

The illustrative access arrangements were different to that proposed as part of this application. It featured two priority junctions accessing the site off Western Road, with both served by right hand turn lanes.

The Highway Authority has assessed the application and the Transport Note contained within it. The applicant proposes a single point of access to serve the whole development. The Highway Authority have confirmed that they are satisfied with the principle of this arrangement. A single point of access

reduces the extent of highway works required, requiring a single right hand turn lane, rather than two as shown in the illustrative material at the appeal. Officers consider this is beneficial, reducing the introduction of urbanising features and allowing greater scope to use landscaping to provide an appropriate entrance to this part of the village. This is discussed in further details below.

The Transport Note reports the average speed of vehicles passing the site based on two speed surveys they have undertaken. This shows that although the proposed access will be formed where the speed limit is 30mph average vehicle speeds passing the site regularly exceeding the limit. As a result of the speed survey findings the Highway Authority have agreed that to ensure appropriate visibility for vehicles leaving the site a splay of 90m in both directions is required.

The applicant has demonstrated that with the removal of hedge as shown on the submitted plans visibility splays at the junction of 90m in each direction can be achieved. The removal of the hedge is discussed further in the following section of this report but from a highway safety and capacity perspective the Highway Authority have confirmed that the access arrangements are appropriately designed and comply with relevant design and safety standards.

The Parish Council have suggested, in their representation on the application for a 'field access', that a roundabout is formed to provide access to the site. The Highway Authority are satisfied that a development of this size can be served by a single priority junction as proposed here. There is no necessity to construct a roundabout to provide the access and Officers do not consider that this would present significant benefits measured against the proposed priority junction.

In addition to the highway works to form the access the applicant has agreed with Essex County Council Highways to seek a to relocate the point at which the speed limits changes from 60mph to 30mph as traffic enters the village. It is proposed that the point is moved to the east of the current location and that new gateway features are installed to ensure drivers are aware of the change. The changes in speed limit would be subject to a Traffic Regulation Order.

There is an existing public right of way (PROW) which runs along the site at the southern boundary of the site. Although it is proposed that Western Road will be widened it will not be necessary to divert the PROW. The applicant will need to agree measures with the Highway Authority to temporarily close or divert the PROW during construction.

Design and Appearance, including Landscape

Policy CS8 of the Adopted Core Strategy seeks to ensure that development proposals have regard to the character of the landscape and its sensitivity to change. Policy CS9 promotes good design and the protection of the historic environment, requiring development to respect and respond to local context.

Policy RLP 80 of the Adopted Local Plan Review and LPP55 of the Draft Publication Local Plan seek to protect distinctive landscape features and to ensure that development is integrated into the local landscape. Policy RLP 81 of the Adopted Local Plan Review encourages the retention and planting of native trees and hedgerows and Policy RLP 90 of the Adopted Local Plan Review seeks a high standard of layout and design.

The existing tall hedge stands hard on the back of Western Road. As referred to above, 90 metre visibility splays are required to provide a safe vehicular access with adequate visibility. It would not be possible to achieve the required level of visibility with the hedge retained in-situ, even if it were trimmed back or reduced in height.

At the Public Inquiry it was established that the proposed residential development would result in the loss of characteristic features of the landscape, including some hedgerows. The planning Inspector commented in the appeal decision that the *'appeal scheme would result in the loss of characteristic features of the landscape, including agricultural land and some hedgerows. The most notable hedgerow loss would be on the Western Road frontage where most of the existing substantial hedgerow would need to be removed to create visibility splays. The new housing would result in the loss of the current open character and would be locally prominent. There would also be some additional highway infrastructure with the introduction of right turn lanes and footways on the northern side of Western Road and the formation of two access roads into the site.'*

Development is shown to be set back from Western Road sufficiently for a replacement hedge to be planted behind the visibility splays required for the new accesses. In the main the existing hedgerows are shown as being retained and reinforced with new planting ... There are therefore opportunities for the mitigation of landscape impacts to be integrated in the design of the scheme'.

It is clear from the appeal decision that having assessed the quality of the hedge and its contribution to the character and appearance of the area the Inspector concluded that the benefits of the housing development outweigh the harm that they identified and this included the loss of the hedge along the Western Road boundary. This is a material consideration which must carry significant weight in the determination of this application.

As summarised above the Council has received 15 letters objecting to the application and all of these object on the grounds that so much hedgerow will be lost. A number of the objections dispute the applicants' assessment of the quality of the hedge and its ecological value. The applicant's arboricultural consultant states that the hedge is infected with Dutch Elm disease and 50% of the Elm is already dead and that the Horse Chestnut has been infected with bleeding canker which reduces the longevity of the species within the hedge. The Council's Landscape Officer has visited the site and their assessment is that the hedge proposed for removal within the 'Arboricultural Impact

Assessment' is mainly composed of elm, hawthorn, blackthorn, and field maple. Most of the elm is dead from Dutch Elm disease and the overall condition of the vegetation along the road is poor, showing signs of die back and lacking vigour.

A number of representations that have been received have referred to a recent planning application at Rickstones Road, Witham where the developer was required by the Planning Committee to move approximately 100m of hedge and transplant it further back into the site. The applicants' consultant has considered whether the Western Road hedge could similarly be transplanted back into the site. Their report concludes that this is unlikely to be successful given the age of the hedge; the presence of diseased plants; and the proximity of many of the plants to the road which would make it very difficult to excavate sufficient root mass for a successful translocation. The Arboricultural Statement states that aftercare would also be required for up to 5 years following the translocation of the hedge and that even with this the chances of survival are considered to be low.

The Council's Landscape Officer has also considered whether translocation of the hedge would be the best solution. They advise that even if carried out by specialist firms the transplanting mature plants is not a guarantee of their survival. It is a well-known fact that the success rate on mature trees establishment following translocation is a much lower than that of new planting, for the following reasons:

- To transplant this hedge you would need to dig out enough of the rootball in order to keep a large ball of soil intact around the roots. With large plants this is difficult as roots may extend out several times the width of the shrub. In this particular case, as the hedge is located along the highway we would expect that about half of the root ball would not be accessible. The reason for this is that smaller roots (called root hairs) are responsible for absorbing water and nutrients from the soil. Digging up a tree or shrub, irrespectively of how careful you are, will result on losing a large amount of these smaller roots, leaving old, heavy, thick roots with limited absorption abilities.
- The plants would then need some drastic pruning after the translocation as their root systems would be compromised and they would not be able to support their leaves. To keep the balance between roots and top they would probably need to cut back by half in height. This would have a visible impact on amenity, but also their biodiversity bearing capacity. It would also mean that it would take this the translocated hedge several years to re-establish itself and begin growing again.
- The poor condition of the existing hedge means that any translocation would be expected to have an even lower success rate. The Elm is mostly dead or dying from Dutch Elm disease, with the plants showing sparse canopies and signs of die-back. Plants which are in failing

health are not good candidates for translocation given the extreme stress that the process puts on the plants.

Given the declining health and condition of the hedge and the need to create adequate visibility to allow safe vehicular access to / from the site Officers agree that planting a new hedge further back in to the site is the most practical solution to mitigating the loss of the hedge.

It is often the case that new landscaping provided as part of a development is provided shortly before the new housing is completed. In this case the applicant has agreed that they will plant a replacement hedge along the Western Road frontage (leaving gaps for the access) in the first planting season after the hedge is removed.

Having reviewed the proposed soft landscaping scheme for the new hedge the Council's Landscape Officer has recommended that the hedge should be planted in a double staggered row pattern so the hedge is denser and that the plant mix should include a larger proportion of evergreen species in order to provide an efficient screening during winter. The applicant has amended the landscaping plan in line with this recommendation. The specification of the plants will help the new hedge to establish more quickly. The planting mix that includes a variety of species is also proposed to provide a range of ecological habitats and visual interest.

Impact on Neighbours

The proposed access has been moved to the east of the existing properties that stand on the southern side of Western Road. The Environmental Services Officer acknowledges that this is a positive move as it reduces the potential for increased air and noise pollution affecting nearby residential occupiers as vehicles access and egress the site. The EHO notes that the retention of the hedge would have helped filter some dust/particulate matter from the site preparation and construction process but they raise no objection to the proposed access, although they do recommend a condition is applied controlling the timing of the works to construct the access.

Ecology

With regard to biodiversity, an extended Phase 1 Habitat Survey of the site was undertaken in February 2018, with further checks in April and May. The report states that the access would encroach onto a strip of semi-improved grassland which runs adjacent to the hedgerow and the arable field. The hedgerow is insufficiently species-rich across its length to be considered to be 'important' under the Hedgerow Regulations 1997.

No signs of badger activity were recorded within the immediate vicinity of the hedgerow.

The applicant's ecology report confirms that there are no mature trees within the hedgerow that would offer suitable roosting opportunities for bats. However, the report states that the hedgerow is utilised by foraging and / or commuting bats and this has been confirmed in a number of letters objecting to the application. The removal of the hedge would remove this foraging corridor for bats however other hedges around the site and in the locality will remain. The applicant proposes a new replacement hedge be planted to mitigate this loss and in time this will mitigate the loss of hedge and the development would not have any short term or long term detrimental effects on the local bat population.

The report recommends the hedgerow is removed outside of the nesting bird season (March to August inclusive) or alternatively checked by an ecologist immediately prior to it being removed and this can be covered by planning condition.

Heritage

There are numerous heritage assets in the locality but the appeal decision establishes that the heritage assets which require detailed consideration in respect of this site are Grade II listed Bowers Hall, the Bowers Hall moat and the Silver End Conservation Area.

When granting planning permission for up to 350 dwellings on the site the Inspector considered the loss of the hedge along Western Road. They concluded that the proposal in totality would result in less than substantial harm to the significance of Bowers Hall and barns, further characterising the degree of harm as minor. The Planning Inspectors decision is a material consideration in the determination of this application and given their conclusions Officers consider that there can be no objection to this application on heritage grounds.

Conclusion

The Council opposed the principle of residential development of this site, however outline planning permission was granted on appeal by a Planning Inspector. Whilst the Council would usually seek to retain established landscape features, such as hedgerows, in the Inspectors appeal decision it is clear that the whole hedge will not be able to stay in-situ. It was accepted by the Inspector that the removal of hedgerow will change the character and appearance of this stretch of Western Road. Although the hedge performs important functions in this location the Planning Inspector who granted planning permission for development acknowledged that in allowing vehicular access into the site off Western Road this would result in the loss of hedgerow.

At the appeal the Inspector considered a scheme which would create two priority junctions to access the site, with associated right hand turn lanes. The applicant has proposed a single point of access and this is considered

advantageous in reducing the amount of carriageway and associated highway paraphernalia.

Neither retention of the hedge in-situ or translocation are viable solutions which would allow suitable, safe vehicular access to the site. The access arrangements have been agreed with the Highway Authority, whose priority is highway safety. Average speeds passing the site mean that visibility splays of 90m in both directions are required. If the splays were reduced in size visibility would be reduced and the risk of accidents increased. Regrettable as it is, a significant amount of hedge will need to be removed to meet appropriate safety standards.

The proposed replacement planting and its timing will seek to mitigate the loss of the hedge so far as is practicable.

Notwithstanding the fact that Officers and Members were opposed to the development of this site the fact is that Outline Planning Permission was won on appeal. Given that Outline Planning Permission has been granted with access from Western Road and in light of the Inspectors decision letter Officers consider that the proposal is acceptable. Whilst this will result in the loss of hedgerow planning conditions are proposed which seek to mitigate the impact on ecology and appearance of the area.

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: 70043745-SK-18	Version: D
Drainage Plan	Plan Ref: 1805-177-SK002	Version: C
Landscape Masterplan		
Access Details	Plan Ref: 70043745-SK-10	Version: F

- 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 18 of the Planning (Listed Building & Conservation Areas) 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 scheme of landscaping indicated upon the approved plan, or such other scheme as may be agreed in writing by the local planning authority, shall be carried out during the first available planting season after the removal of the hedgerow on Western Road, as shown on the approved plans. Any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five 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 to mitigate for the removal of the hedge and in order that the replacement hedge to become established as soon as possible following removal of the existing hedgerow.

- 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 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.

- 6 No clearance of trees and shrubs in preparation for (or during the course of) development shall take place during the bird nesting season (March - August inclusive) unless a bird nesting survey has been submitted to and approved in writing by the local planning authority. If such a survey reveals the presence of any nesting birds, then no development shall take place within those areas identified as being used for nesting during the period specified above.

Reason

In order to ensure that there are no nesting birds within the hedge when the works to remove the hedge are undertaken.

- 7 Prior to first use of the access hereby approved visibility splays with dimensions of 2.4 metres by 90 metres as measured from and along the

nearside edge of the carriageway shall be provided on both sides of the access. 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.

INFORMATION TO APPLICANT

- 1 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.

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).

All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to development.management@essexhighways.org or SMO1 - Essex Highways, 653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ.

- 2 Prior to the commencement of the development hereby permitted arrangements shall have been agreed in writing with the Highway Authority for safeguarding, or temporarily diverting the public rights of way across the site including the provision and maintenance of temporary fencing and signposting where appropriate.

**CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER**

Appeal Decision

Inquiry opened on 31 January 2017

Site visit made on 7 February 2017

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 March 2017

Appeal Ref: APP/Z1510/W/16/3146968

Land off Western Road, Silver End, Essex CM8 3SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Gladman Developments Ltd against Braintree District Council.
 - The application Ref 15/00280/OUT is dated 27 February 2016.
 - The development proposed is up to 350 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation.
-

Decision

1. The appeal is allowed and outline planning permission is granted for up to 350 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation at Land off Western Road, Silver End, Essex CM8 3SN in accordance with the terms of the application, Ref 15/00280/OUT, dated 27 February 2016, subject to the conditions set out in the attached schedule.

Preliminary matters

2. The Inquiry sat for 5 days from 31 January to 3 February and on 7 February 2017.
3. The application was in outline with all matters reserved for subsequent approval. It was supported by an illustrative development framework plan. An alternative illustrative development framework plan was submitted in support of the appeal together with illustrative access details showing one way in which the site could be provided with two vehicular access points to Western Road. I have taken this illustrative material into account in reaching my decision.
4. The Council resolved that, had it been in a position to determine the application, it would have been refused for 7 reasons¹ which may be summarised as follows:
 - 1) the site lies outside the development boundary of Silver End and would amount to an unjustified intrusion into the countryside, harmful to the rural setting of the village

¹ The reasons are set out in full in the Council's Statement of Case

- 2) the Council does not accept that the proposal would amount to sustainable development, as defined in the National Planning Policy Framework (the Framework), having regard to:
- the excessive amount and unsuitable location of the development
 - the lack of availability and capacity of local services
 - adverse landscape impacts
 - harm to the setting of the Grade II listed Bowers Hall, together with its associated curtilage buildings, and to the setting of the Silver End Conservation Area
 - the failure to demonstrate that safe and suitable access could be provided
 - the absence of proposals to enhance the sustainability of the proposal, including in relation to early years/childcare services, funding for school transport and the extension of bus services at the start and end of the day to provide improved access to rail services at Braintree and Witham
 - the failure to demonstrate that mineral deposits at the site cannot be worked economically
- 3) the proposal would enclose Bowers Hall, to the detriment of the setting of the farmstead. It would also be harmful to the character and appearance of the Silver End Conservation Area in that the key eastern approach would assume an inappropriately urban appearance
- 4) the proposals could sterilise a potentially economically workable mineral deposit
- 5) the application does not demonstrate that a safe and suitable access to the public highway could be provided
- 6) the application does not demonstrate that the traffic generated would not adversely affect the functioning of the wider highway network, including junctions at Galleys Corner (A120) and the Rivenhall End junction with the A12
- 7) the absence of planning obligations relating to affordable housing, early years/childcare facilities, primary education, off-site highways works, health care, bus service enhancements and management of open space.

In this decision I refer to these as the putative reasons for refusal (PRR).

5. Statements of Common Ground (SoCG) were agreed between the Council and the appellant in relation to heritage, landscape and planning matters. There were also SoCG agreed between the County Council and the appellant in relation to highways and transport, minerals and education. The Council did not take a different view on any of the matters agreed by the County Council.
6. A Unilateral Undertaking (UU) was submitted at the Inquiry. This was not signed before the end of the Inquiry because of the need for some changes which did not become apparent until the final day. I therefore allowed a period following the Inquiry for a signed version to be submitted. The UU would make

provision for financial contributions to off-site open space, health care, early years/childcare facilities, primary education and school transport for secondary school pupils. The UU also contains provisions relating to arrangements for managing and maintaining green infrastructure, safeguarding land for an early years/childcare facility, an offer to transfer that land to the County Council and the arrangements for implementing a travel plan.

7. The Council submitted written evidence of compliance with Regulations 122 and 123 of the Community Infrastructure Levy Regulations (where relevant) and with the tests for planning obligations set out in the Framework. Further information was provided at the Inquiry in answer to my questions. The need for these obligations was not disputed by any party at the Inquiry and I see no reason to take a different view. I consider that the obligations are consistent with the Regulations and the Framework and have taken them into account in my decision accordingly. I return to some of the individual obligations below.
8. The Council did not pursue PRR1 for reasons explained below. Having considered the illustrative access plan and the highways and transport SoCG, the Council did not pursue PRR5 or PRR6. PRR2 was not pursued insofar as it relates to the capacity of local services, safe and suitable access, early years/childcare services and funding for school transport.
9. The application was accompanied by an Environmental Statement (ES). At the Inquiry the Council confirmed that it was satisfied with the ES. No other party has queried the adequacy of the environmental information and I have taken the ES into account in reaching my decision.
10. In closing, the Council made reference to a High Court judgment in the case of *Watermead*². A Court of Appeal decision in respect of this matter was expected imminently. I therefore allowed a period for any final submissions in the light of that decision. In the event, the Court of Appeal decision was not received in the timescale anticipated. I therefore invited the appellant to make final submissions on the High Court decision, which I have taken into account.

Main issues

11. The main issues are:

- the extent to which the services and facilities needed to serve the proposed development would be available, would have sufficient capacity and would be accessible by sustainable modes of transport
- the effect of the proposal on the character and appearance of the area
- the effect of the proposal on the historic environment
- the effect of the proposal on mineral resources

Reasons

Housing land supply and policy context

12. The development plan includes saved policies of the Braintree District Local Plan Review 2005 (BDLP), the Braintree District Council Core Strategy 2011 (CS) and the Essex Minerals Local Plan 2014 (EMLP).

² *Watermead Parish Council v Aylesbury Vale DC* [2016] EWHC 624 (Admin)

13. The Council and the appellant agreed that the Council is not able to demonstrate a 5 year supply of housing sites, as required by the Framework. There was not agreement over the precise amount of supply, with the Council promoting a figure of 3.8 years and the appellant suggesting that the figure is 3.1 years³. However, the Council and the appellant agreed that the remaining difference between them was not likely to have a material bearing on the outcome of this appeal. Consequently, neither side called detailed evidence on this matter. For the purposes of this decision, I am satisfied that the range is sufficiently narrow that it is not necessary for me to comment further on the difference between the parties. I have approached my decision on the basis of a range of 3.1 to 3.8 years.
14. In accordance with paragraph 47 of the Framework, it follows that relevant policies for the supply of housing are not to be considered up-to-date. PRR1 refers to CS policy CS5 and BDLP Policy RLP 2. These policies seek to protect the countryside by restricting development outside settlement boundaries. The Council accepts that these are relevant policies for the supply of housing and that is the reason why it did not pursue PRR1. In my view the Council was right to take this approach. Having regard to the housing land supply position, only limited weight should be attached to the conflict with these policies.
15. The Council has started work on the preparation of a new local plan (eLP). Consultation on the draft eLP took place in 2016. The Council and the appellant agree that it should be given limited weight at this early stage of preparation, a view which I share.

Availability and accessibility of services and facilities

16. The CS defines Silver End as a Key Service Village – one of 6 such settlements in the District. They are described as:

...large villages with a good level of services, including primary schools, primary health care facilities, convenience shopping facilities, local employment, frequent public transport to higher order settlements and easy access by public transport to secondary schools.

17. The Council argued that the characteristics of Silver End have changed since the CS was prepared and that this designation will not be carried forward into the eLP. However, the eLP is at an early stage and little weight can be attached to what it may ultimately say about Silver End. To my mind the CS provides the starting point although it is also necessary to go on to consider how things may have changed since it was adopted in 2011. Moreover, I attach little weight to CS Policy CS1 which sets out levels of housing provision for the key settlements over the period 2009 to 2026. That is a relevant policy for the supply of housing which is not to be regarded as up-to-date.
18. One factor which has changed is the level of local employment. A local Councillor gave evidence that employment opportunities within Silver End are now more limited following the closure of some locally important businesses. On the other hand, Silver End is relatively close to employment opportunities in both Witham and Braintree, which are two of the three main towns in the District.

³ The disagreement related to whether the Liverpool or the Sedgefield approach should be used in the calculation

Education facilities

19. Many of the written representations draw attention to pressures on primary education facilities. The appeal scheme would generate a requirement for about 105 primary school places. Silver End Primary School is located about 500m from the site entrance on Western Road. The school has recently been expanded to accommodate planned growth in the area and is unlikely to be able to accommodate children from the appeal site. The County Council has commented that further expansion is unlikely to be possible unless additional land can be made available. However, the County Council states that there is a reasonable degree of confidence that Cressing Primary School, which is about 2.5 miles away, could be expanded to provide sufficient primary school places to serve the appeal proposal. The UU would secure a proportionate contribution to the provision of additional school places. The UU allows for expansion either at Cressing or at Silver End, although the evidence suggests that expansion at Cressing is more likely to be achievable.
20. In the light of the UU, neither the Council nor the County Council maintained an objection in relation to primary education. Even so, one consequence of the appeal proposal would be that some primary school children from Silver End would need to travel to Cressing. As that is a journey which is unlikely to be walkable I regard this as a disadvantage of the appeal scheme.
21. There are secondary schools with capacity to serve the appeal scheme in Witham and Braintree. School transport is currently provided from Silver End and the County Council has confirmed that pupils from the appeal site would be eligible for such transport⁴. The UU provides for a contribution to the additional costs of school transport which would arise as a result of the location of the appeal site, which is a little over 3 miles from the nearest secondary school. I therefore consider that this is a location which has easy access to secondary schools by public transport.
22. The County Council has identified a shortage of early years/childcare facilities in Silver End. It is proposed that a new facility would be provided within the appeal site. The County Council assesses that the appeal scheme would generate a need for around 31 places and that the smallest viable unit would be a 56 place facility. The UU makes provision for a suitable area of land to be safeguarded for this purpose and offered to the County Council. Further provisions would address practical issues such as access and utilities. There would also be a proportionate financial contribution to the cost of constructing the new facility.
23. The new facility would require planning permission in its own right and further funding would be needed. However, having regard to the scale of the appeal site I see no reason why the design and layout of the proposed housing scheme could not satisfactorily accommodate the suggested facility. The Council and the County Council are satisfied that the UU addresses the need generated by the appeal scheme and I share that view. Being within the site, the facility would be highly accessible to the new residents and I have no doubt that it would promote social wellbeing.

⁴ Document LPA4, paragraph 7.8

Health care

24. There is a GP practice located centrally within Silver End, which is combined with the practice of the St Lawrence Surgery, Braintree. Several of the written representations have expressed concerns about the pressures on GP services. Responding to the application, NHS England sought a proportionate financial contribution to the cost of providing additional health facilities. The UU would secure an appropriate contribution to provision either at Silver End or at the St Lawrence Surgery.

Access to other facilities within Silver End

25. Local shopping facilities are available at the Broadway, where there is a convenience store and post office, newsagent/off-licence, pharmacy and a hot food takeaway. Other community facilities near the Broadway include a library, a sports ground and the memorial gardens. At the Inquiry the Council agreed that Silver End has facilities which are sufficient to meet the day to day needs of most people. That seems to me to be a fair assessment. There is no reason to think that the capacity of any of these services would be insufficient to cope with additional use by new residents of the appeal scheme.
26. The highways and transport SoCG notes that the walk time from the site access to the shops would be about 12 to 13 minutes. This is characterised as a '*convenient walk or cycle ride*'. Of course it is also necessary to factor in additional walk time within the site, which would vary according to the location of any given property. I note that Manual for Streets (MfS) states that walkable neighbourhoods are characterised by having a range of facilities within a 10 minute walk. However, MfS makes clear that this is not an upper limit. Moreover, it is relevant to consider the nature of the walking route. In this case I saw that this would be mainly flat, passing through pleasant residential areas with adequate footways and lighting. I see no reason to disagree with the SoCG insofar as it relates to the site access and the southern part of the site.
27. Having said that, the SoCG does not specifically address the northern part of the site which is at some distance from Western Road. The alternative development framework shows a potential pedestrian link from the western side of the site to Daniel Way. The link exists presently on an informal basis but the appellant informed the Inquiry that there is an area of privately owned land between the site boundary and the public highway. Discussions with the owner of that land are in progress. The Council argued that, if planning permission were to be granted, it should be subject to a Grampian condition requiring the provision of a pedestrian/cycle link at this point. The appellant agreed that such a condition could properly be imposed if it were found to be necessary, whilst maintaining that it would not be necessary because (in the appellant's view) the site would be sufficiently accessible without it.
28. If a link to Daniel Way were provided, houses in the northern part of the site would be likely to have walk times to the centre of Silver End which would be comparable to those from houses in the southern part of the site. Without such a link the walk times would be significantly extended. I consider that this would be a real disincentive to making trips within the village on foot. In the terms of the Framework, the scheme would fail to take up the opportunities for

sustainable transport modes⁵. In my view a Grampian condition is necessary to make the development acceptable in planning terms.

Access to services and facilities in other settlements

29. Silver End lies between Braintree and Witham, two of the three main towns in the District. These higher order centres provide a range of opportunities for employment, shopping and leisure activities. Witham is on the railway line from Ipswich to London, which also provides rail services to Chelmsford and Colchester. There is a bus service running between Braintree and Witham which stops in Western Road, close to the proposed access. This offers a reasonably frequent service, Monday to Saturday. The buses run until the early evening, with the last bus from Witham leaving at around 19.30hrs. These services would provide a reasonable level of accessibility for those travelling to the nearby towns for work, shopping and leisure activities at these times. The proposals include measures to relocate and upgrade the bus stops which could be secured by a condition.
30. PRR2 and PRR7 refer to the need to extend bus services into the evening period. The Council's main concern under this heading was that people commuting to London by rail from Witham may choose to drive to the station because of the lack of evening bus services. That may well be the case for a proportion of rail commuters, depending on their working hours and place of work. However, there was no evidence before the Inquiry to show that this would apply to such a large number of people that it would be an important factor in this case. Nevertheless, the lack of evening and Sunday bus services would also limit public transport accessibility for some work and leisure trips and this should be recognised as a disadvantage.
31. A local Councillor gave evidence that the nature of local roads is such that relatively few people would choose to cycle as a means of travelling outside the settlement of Silver End. From what I saw of the local road network I have no reason to doubt that evidence.

Conclusions on the first main issue

32. Silver End has a range of local facilities, sufficient to meet most day to day needs. Subject to the Grampian condition referred to above these would be reasonably accessible on foot. The UU would secure appropriate and proportionate contributions to mitigate the impact of the proposal on early years/childcare facilities, primary education and health care. Although the availability of employment in Silver End is more limited than it was at the time it was designated as a Key Service Village, there is reasonable accessibility to employment opportunities in a range of higher order settlements.
33. The need for some children to travel out of Silver End to attend a primary school in a nearby village is a disadvantage, as is the lack of bus services in the evenings and on Sundays. However, drawing together all of the above factors, I consider that the services and facilities needed to serve the proposed development would be available, would have sufficient capacity and would be reasonably accessible by sustainable modes of transport. The proposal would accord with CS Policy CS11 which seeks to ensure that the infrastructure,

⁵ The Framework, paragraph 32

services and facilities required to meet the needs of the community are delivered in a timely manner.

The effect of the proposal on the character and appearance of the area

34. The site comprises two fields separated by a ditch and a hedgerow. The northern field is used as horse paddocks and the southern field is in arable production. To the west is modern residential development on the edge of Silver End. Bowers Hall, a Grade II listed farmhouse set in a large curtilage, adjoins the south west corner of the site. Most of the former farm buildings, including a large 19th century barn, are in separate occupation and are used for the storage of cars. To the south the site has a frontage to Western Road, which is bounded by a substantial hedgerow. There is a ribbon of 20th century development fronting the southern side of Western Road for around half the length of the appeal site frontage. There is open farmland to the east and north east and, to the north west, there are extensive residential curtilages of properties fronting Sheepcotes Lane.
35. The site falls gently from west to east towards a watercourse along the eastern boundary. Public Footpath 53 (FP53) runs close to Western Road along the full extent of the southern edge of the site inside the boundary hedge. Beyond the site it continues eastwards across the next field before turning north on slightly higher ground which is at a similar elevation to the western edge of the appeal site. From this section of FP53 there are panoramic views of the appeal site and the eastern edge of Silver End.

Landscape character

36. The site lies within the 'Central Essex Farmlands' landscape character area as identified in the Essex Landscape Character Assessment. The characteristics described in that document are similar to those in the more local Landscape Character Assessment for Braintree District which places the site in the 'Silver End Farmland Plateau' character area. The key characteristics described in the latter document include gently undulating farmland, irregular predominantly large agricultural fields marked by sinuous hedgerows, small woods and copses, a scattered settlement pattern, a network of narrow winding lanes and a mostly tranquil character.
37. The Council and the appellant disagreed as to whether the site should be regarded as part of a valued landscape, as that term is used in the Framework. The site is not subject to any landscape designations. Whilst this is one indication of its value, it is not determinative. The *Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA3)* set out a range of factors that can help in identifying valued landscapes which I have taken into account⁶. The Council emphasised that the site is representative of the wider landscape character area, that it has recreational value and that it has historic and cultural interest associated with the adjoining listed buildings. It was suggested that, together, these factors indicate that the site should be regarded as a valued landscape.
38. The site forms part of an undulating agricultural landscape and includes a large field with some good hedgerows. There are some trees and copses nearby, although tree cover within the site itself is limited. There is a single oak which

⁶ Box 5.1

is subject to a Tree Preservation Order and there are other trees within the hedgerows. The character of the site is also affected by the edge of the built-up area of Silver End and by traffic on Western Road. It is not particularly tranquil and has few landscape features other than the boundary hedgerows. Thus, whilst it exhibits some of the characteristics of the *Silver End Farmland Plateau*, in my view it is not a particularly important example.

39. A public footpath traverses the site which provides the residents of Silver End with an opportunity to experience the countryside. That adds some recreational value. There are glimpsed views of the roofscape and chimney of Bowers Hall. These are heavily filtered by trees even in winter views. In visual terms there is only a limited connection between the Hall and the appeal site. The roof of the 19th century barn is a more distinctive feature. However, in the elevated views from FP53 to the east it is the modern housing development along the skyline which dominates and catches the eye. In my view the adjoining listed buildings have only a limited effect on the landscape value of the appeal site. My overall assessment is that, while the site has some scenic quality, it does not possess any characteristics which make it other than a pleasant but essentially ordinary tract of rural landscape. I do not think that it should be regarded as a valued landscape for the purposes of the Framework.
40. The Council has carried out an assessment of the capacity of land around Braintree to accommodate development⁷. This work identified a distinction between the two fields comprising the appeal site. The northern field was assessed as having a close physical and visual relationship with adjoining housing at Silver End and the small-scale and enclosed nature of the land was contrasted with the more open character of the adjoining farmland. This part of the site was described as having a medium-high capacity to accommodate development. The southern field is within an area which is assessed as having a medium-low capacity to accommodate development. However, the southern field is only part of a much larger parcel of land described in the Council's study as Parcel 2c. Within that much larger parcel, the appeal site is the part most closely related to the existing built form of Silver End. It is therefore likely to have a higher capacity than the parcel as a whole.
41. The appeal scheme would result in the loss of characteristic features of the landscape, including agricultural land and some hedgerows. The most notable hedgerow loss would be on the Western Road frontage where most of the existing substantial hedgerow would need to be removed to create visibility splays. The new housing would result in the loss of the current open character and would be locally prominent. There would also be some additional highway infrastructure with the introduction of right turn lanes and footways on the northern side of Western Road and the formation of two access roads into the site.
42. The alternative development framework shows one way in which green infrastructure could be an integral part of the design. This is an illustrative drawing. Nevertheless, I see no reason why the Council could not secure an appropriate response to the landscape context at reserved matters stage. The development framework shows substantial areas of open space along the eastern edge of the site and around Bowers Hall. Development is shown to be set back from Western Road sufficiently for a replacement hedge to be planted

⁷ Braintree District Settlement Fringes: Evaluation of Landscape Capacity Analysis Study for Braintree and Environs 2015

behind the visibility splays required for the new accesses. In the main the existing hedgerows are shown as being retained and reinforced with new planting. The TPO oak is shown as being retained as a feature of the layout. There are therefore opportunities for the mitigation of landscape impacts to be integrated in the design of the scheme.

43. The landscape and visual impact assessment (LVIA) submitted with the application assessed the effect of the proposal on landscape character as a moderate adverse impact. Having regard to all the above factors, I agree with that conclusion.

Visual impacts

44. The Council and the appellant agreed that the visual impacts of the proposal would be localised. It was also agreed that the main visual receptors would be the occupiers of residential properties adjoining the western edge of the site and people using FP53. There would be significant changes to the views from houses backing on to the site. However, the scale, location and orientation of the proposed houses would be controlled at reserved matters stage. No doubt full consideration would be given to any potential impacts on the living conditions of the adjoining residents as part of that process. There is no reason to think that satisfactory living conditions could not be maintained.
45. There would be a significant impact on the views experienced by users of FP53. The current open views across the site to the north would be curtailed and the path would skirt a housing estate rather than being in the countryside as it is now. On the other hand, these effects would mainly be experienced within the approximately 350m of FP53 which lies within the site. Once past the site, the effect would diminish over a relatively short distance. The appeal scheme would be clearly seen from the section of FP53 which runs northwards. The effect would be to bring the edge of the built-up area, which is already apparent on the skyline, closer to the viewer. Even so, this part of FP53 would still provide the experience of being in the open countryside, much as it does now.
46. The Council and the appellant disagreed over the effectiveness of mitigation. I agree with the Council that the loss of openness would be a permanent effect on landscape character. With regard to the effect on views, the Council was concerned that planting proposed along the eastern site boundary would not be effective because it would be at a lower level than the appeal site. The agreed landscape sections which were provided during the course of the Inquiry are helpful in assessing this point. Although the eastern edge is the lowest part of the site, the changes in level are not great. Moreover, to my mind the design objective of new planting here would not be to hide the proposal. Rather, the intention would be to help to integrate the new development into its surroundings in a way which is sympathetic to the existing landscape character. The sections show that, in time, the proposed planting could be of sufficient height to be effective. The details of mix of species and density of planting would be determined at reserved matters stage.

Conclusions on second main issue

47. To summarise, the proposal would result in moderate harm to landscape character and there would be some significant adverse visual impacts,

- particularly for users of FP53. However, the visual impacts would be localised and mitigation could be achieved as part of the detailed design of the scheme.
48. CS Policy CS8 seeks to ensure that development proposals have regard to the character of the landscape and its sensitivity to change. Amongst other matters proposals should enhance the natural environment by creating green networks to link urban areas to the countryside. Policy CS9 promotes good design and the protection of the historic environment, requiring development to respect and respond to local context. BDLP Policy RLP 80 seeks to protect distinctive landscape features and to ensure that development is integrated into the local landscape. Policy RLP 81 encourages the retention and planting of native trees and hedgerows and Policy RLP 90 seeks a high standard of layout and design.
49. The alternative development framework shows one way in which these policies could be addressed, insofar as it can at this outline stage. Ultimately compliance with these policies could only be secured at reserved matters stage. On the basis of the information before me I see no reason why the policies could not be complied with. I have not identified any inherent conflict with them.

The effect of the proposal on the historic environment

50. Although there are numerous heritage assets in the locality the Council and the appellant agreed that the heritage assets which require detailed consideration in this case are Bowers Hall and barns, the Bowers Hall moat and the Silver End Conservation Area. I share that view.

Bowers Hall and barns

51. Bowers Hall is a Grade II listed building. The listing description records that it is a timber framed structure dating from the 17th century and that the interior has exposed beams and original doors and panelling. The Hall also has a large chimney stack with a moulded brick cap which is a prominent feature. The Hall has both historic and architectural interest as an example of the vernacular architecture of the period. The listing description also includes '*barns and outbuildings to the south east*'. The most prominent of these is a large early 19th century⁸ threshing barn built on a north/south axis in the south east corner of the complex. A lower barn, of similar age, was built on a north west/south east axis between the threshing barn and the Hall. Other outbuildings are thought to be of little heritage significance and some may post-date the listing.
52. The threshing barn is of historic interest due to its impressive scale, its timber frame construction and the evidence it holds regarding the agricultural technology of the 19th century. The Hall and the barns were originally an isolated farmstead. Their survival as a recognisable farm group adds to both their individual and their collective interest. All of the above factors contribute to the significance of the designated heritage assets.
53. The coherence of the farmstead has been eroded by changes in ownership and land use. There is no longer any agricultural use and the Hall is a private dwelling. The threshing barn, and the spaces around the barns and outbuildings, are in separate ownership and are used for storing cars. There appears to have been a deliberate attempt to reinforce the separation of the two land uses through subsequent changes. A modern 4 bay garage with

⁸ This date was ascertained by map evidence but it is understood that the building may be older

accommodation above has been built between the Hall and the barns. The style of this building is sympathetic to the barns but its scale and siting have the effect of enclosing the Hall and separating it from the historic farm buildings. The Hall has a separate access and drive which is partially screened from the car storage operation by a fence and tall hedge.

54. The Hall is set within extensive grounds which include gardens, paddocks, stables and the former moat. (The moat is discussed further below). The grounds contribute to its significance because they enable the Hall to be seen as a free-standing structure in a sylvan setting. In addition, there is a pond and paddocks which may be vestiges of the former agricultural role of the farmstead. This is an aspect of the setting which can be seen in views from Western Road. The views from Western Road provide a good opportunity to appreciate the scale of the decorative chimney stack in relation to the roof of the Hall. The threshing barn can also be seen from Western Road.
55. The appeal site adjoins the boundary of the Hall complex and is within its setting. Historic mapping shows that the southern field of the appeal site was in the same holding as the Hall in 1839 although the association may well be older. It seems probable that the threshing barn was built to process grain from land which included a significant part of the appeal site. During the early 20th century Bowers Hall and its land (including the appeal site) were bought by the Silver End Development Company. This purchase was intended to supply food to the garden village which was being constructed at Silver End at that time.
56. In assessing the contribution the appeal site makes to the significance of the Bowers Hall complex the first point to note is that the ownership link and the functional link are no longer in existence. Moreover, since the separation of the barns from the Hall, changes to the immediate surroundings of the Hall have tended to reinforce its enclosure. Nevertheless, the appeal site remains in agricultural use and immediately adjoins the former farmstead. The current land use therefore adds something to the ability to understand and appreciate the significance of the listed buildings.
57. As noted above, the visual links between the appeal site and the listed buildings are not strong. Only the chimney and part of the roof of the Hall can be seen, and then only in filtered views. The roof of the threshing barn is a more prominent feature⁹. The most important views are those from the westernmost section of FP53. In these relatively close views the impressive height and scale of the barn can be appreciated. The chimney stack of the Hall is visible. The listed buildings can also be picked out in longer views from FP53 to the east of the appeal site. At this range the chimney stack is hard to discern. Whilst the threshing barn can be seen it is a minor element in a panoramic view. These middle distance views add little to the ability to experience the heritage assets.
58. The main effect of the appeal scheme would be to remove the agricultural land use which was formerly associated with Bowers Hall. The Council emphasised the cumulative nature of this effect. This once isolated farm group now has 20th century development to the west and south. The appeal scheme would introduce new housing to the north and east, separating the Hall and barns

⁹ Views of the lower barns and outbuildings are very restricted

from the open countryside. That would have a negative impact on the significance of the heritage assets.

59. The illustrative alternative master plan shows ways in which impacts on views could be mitigated. A buffer of open space, around 30m wide, is suggested adjacent to the eastern and northern boundaries of Bowers Hall and barns. This layout would help to reinforce the sense of the Hall as a free-standing building which could be seen in the round within a predominantly green setting. The suggested separation distance would avoid any sense of the Hall being hemmed in by modern development. Moreover, the layout could preserve the closer views from FP53 which enable the height and scale of the threshing barn to be appreciated. Indeed, some additional views may be obtained from within the open space. The extent to which such views would be preserved and/or created would depend on the amount and type of planting around this part of the appeal site boundary, a matter which would be determined at reserved matters stage.
60. It must be acknowledged that views from further back in the appeal site would be impacted by new development or curtailed altogether. In addition it is likely that the middle distance views from the east would be lost. That said, I have commented above that the middle distance views add little to the ability to experience the heritage assets in any event.
61. My overall assessment is that the scheme would not preserve the setting of the listed buildings at Bowers Hall and barns. The effect on the setting of the listed buildings would result in some harm to the significance of the listed buildings. In assessing the degree of harm, it must be noted that setting is only part of the significance of any heritage asset. In this case the fabric and architecture of the assets are important aspects of their significance which would be unaffected by the proposal. Moreover, the coherence of the farm group as a whole (albeit somewhat eroded), that part of the setting which falls within the curtilage of the Hall and barns and the views from Western Road would all be preserved. Insofar as views from within the appeal site contribute to setting, mitigation could be incorporated in the scheme at reserved matters stage.
62. For all these reasons I conclude that the proposal would result in less than substantial harm to the significance of Bowers Hall and barns. I would characterise the degree of harm as minor. Nevertheless, mindful of the relevant statutory duty¹⁰, I attach considerable importance and weight to this harm. The Framework requires the harm to be balanced against the public benefits of the proposal¹¹. I return to that balance in the conclusion to my decision.
63. BDLP Policy RLP 100 seeks to protect listed buildings and their settings. In that there would be some harm to the setting of the Hall and barns, this policy would not be complied with. However, the policy is not consistent with the approach to the historic environment set out in the Framework which requires harm to heritage assets to be balanced against public benefits. I therefore attach limited weight to the conflict with Policy RLP 100 and greater weight to the advice in the Framework.

¹⁰ Planning (Listed Buildings and Conservations Areas) Act 1990, section 66

¹¹ The Framework, paragraph 134

Bowers Hall moat

64. The moat is a non-designated heritage asset. The Essex Historic Environment Record (HER) identifies it as a Medieval feature. The moat appears on historic maps up to 1938 and the HER indicates that it was filled during the 1940s. Today there is a raised platform in the centre of the former moat with a depression to one side. Otherwise there is little evidence of the moat to be seen above ground. No building within the formerly moated enclosure has been identified. Nevertheless, the moat has evidential value in that it indicates the likely location of the precursor to the 17th century Hall. For the same reason, it has group value as part of the Bowers Hall complex – thereby adding to the significance of the listed buildings. The moat may contain archaeological evidence of past occupation and, if so, that would add to its significance.
65. The significance of the moat is mainly understood through historical records. To the extent that it can be experienced at all as a visible physical feature, this can only be done from within the northern part of the Hall complex. Even though the appeal site immediately adjoins the northern section of the moat, it makes no material contribution to the ability to experience the heritage asset. If buildings were constructed close to the boundary this could potentially disturb archaeological deposits. However, the alternative development framework shows that there would be an open space buffer at this point. Subject to appropriate mitigation being included in the layout, which could be secured at reserved matters stage, the appeal scheme would have no impact on the significance of the moat. Nor would there be any impact on the contribution that the moat makes to the significance of the Hall complex as a whole.

Silver End Conservation Area

66. The Silver End Conservation Area Appraisal (CAA) notes that the Silver End Garden Village was developed from 1926 to 1932 by Francis Crittall to provide a new factory and housing for his workers. The conservation area has both historic and architectural interest. Planned as a garden village, and containing a concentration of early Modern Movement houses, it is an example of new ideas in town planning and architecture which were current at that time. A significant amount of new housing development took place to the east of the conservation area during the latter part of the 20th century. This eastwards expansion included the land between the conservation area and Bowers Hall. The appeal scheme would not have any direct impact on the conservation area and would be separated from it by modern housing development. Consequently, mindful of the relevant statutory duty¹², I find that the character and appearance of the conservation area would be unaffected by the appeal scheme and would thus be preserved.
67. The main disagreement between the Council and the appellant related to the weight to be attached to any impact on the setting of the conservation area. There are two ways in which the appeal site may contribute to the significance of the conservation area. First, there is a historic association in that the appeal site forms part of a larger area of land purchased by the Silver End Development Company in order to supply food to the garden village. Second, one of the approaches to the conservation area is via Western Road. The Council argued that the rural character of this approach is important to the

¹² Planning (Listed Buildings and Conservations Areas) Act 1990, section 72

- understanding of the origins of the conservation area as a planned settlement in the countryside.
68. The historic association no longer exists and can only be understood by reference to documentary records. In addition, the appeal site is separated from the conservation area by intervening 20th century housing. In my view the ability to understand this association would not be materially affected one way or the other by the outcome of the appeal.
69. The CAA identifies a number of significant views, of which almost all are internal to the designated area. There is one identified significant view out over countryside which is adjacent to the primary school. That is a view to the south of the village which would be unaffected by the appeal scheme. I saw that the settlement has been designed such that views along the main thoroughfares are generally terminated by buildings. The CAA does not identify any important designed views into or out of the designated area. To my mind the nature of this particular conservation area is such that the setting makes only a limited contribution to its significance as a designated heritage asset.
70. Even so, the approach along Western Road does add (to some extent) to the ability to understand the origins of the garden village. The importance to be attached to that contribution should reflect the fact that this is only one aspect of the setting of the conservation area as a whole. There are other approaches to the conservation area and other locations where the designated area is much closer to the countryside. The appellant calculates that the distance along Western Road from the south west corner of the appeal site to the conservation area is about 280m¹³. Modern housing is already readily apparent along this part of Western Road. Moreover, there is already a more or less continuous run of 20th century ribbon development on the south side of Western Road opposite the appeal site¹⁴. For all of these reasons I consider that the contribution that the appeal site makes to the significance of the conservation area is very limited.
71. Turning to the impact of the appeal scheme, the alternative development framework shows one way in which this could be mitigated by setting back the development along Western Road and reinstating a new hedgerow behind the new visibility splays. Subject to appropriate detailed design, which could be secured at reserved matters stage, my overall assessment is that the effect of the appeal scheme on the significance of the conservation area would be so limited that it should attract little weight in the planning balance. In that there would be some harm (however minor) to the setting of the conservation area there would be conflict with Policy RLP 95 which seeks to preserve the settings of conservation areas. However, like Policy RLP 100, this policy is not consistent with the Framework. For the same reason, I attach limited weight to the conflict with Policy RLP 95 and greater weight to the advice in the Framework.

Conclusions on the third main issue

72. The main impact on the historic environment would be minor harm to the significance of Bowers Hall and barns. In the terms of the Framework this would be less than substantial harm. There would be no harm to the

¹³ The figure was not disputed

¹⁴ This extends about half way along the appeal site frontage

significance of the Bowers Hall moat. The harm to the significance of the Silver End Conservation Area (resulting from a change in its setting) would be so limited that it should attract little weight in the planning balance.

The effect of the proposal on mineral resources

73. The appeal site is located within a Minerals Safeguarding Area (MSA) where EMLP Policy S8 seeks to safeguard mineral resources of national and local importance. The policy sets out a consultation requirement for proposals, such as this, which are for more than 5ha of development within an area which is safeguarded for sand and gravel. The policy goes on to state that proposals which would unnecessarily sterilise mineral resources should be opposed. Where the local planning authority considers that surface development should be permitted, the policy requires that consideration is given to prior extraction of minerals.
74. Borehole data was submitted in support of the appeal. The minerals SoCG records that the County Council¹⁵ and the appellant agree that the northern field within the appeal site is unlikely to contain a viable deposit of sand and gravel. It also notes that the southern field contains a sand and gravel deposit around 10m in depth. Allowing for a 100m buffer zone between the excavation and residential properties, and a 20m buffer to other boundaries, it is agreed that the southern field could yield around 657,000 tonnes of sand and gravel. The appellant accepted that this volume is sufficient to be of economic importance. The main disagreement between the Council and the appellant related to the practicalities of prior extraction.
75. I accept the appellant's evidence that there would be significant practical difficulties in extracting the minerals from the appeal site. First, there would be limited space for processing the sand and gravel on site. Whilst the northern field might offer a possibility for processing it is close to several residential properties. In theory the minerals could be processed at the nearby Bradwell Quarry but there is no obvious reason why the owners and/or operators of that large and established facility would be agreeable to importing a competing source of sand and gravel. The need for processing could be reduced by dry-screening the minerals but that would reduce the market for them.
76. A second difficulty is the lack of a good means of road access for an aggregates operation. The Council's evidence accepted that the road links are '*not ideal*'. This is because of weight/height restrictions on the southern route to the A12. Consequently, all the HGV traffic would need to pass through the village of Silver End to the west of the site. The possibility of a haul road linking to the existing Bradwell Quarry was suggested but this would be subject to the agreement of other owners and/or operators which, as noted above, may not be forthcoming.
77. There would also be significant doubts about the suitability of the site for housing if prior extraction were to take place. If the full depth of sand and gravel were extracted this would leave a deep and steep-sided bowl shape¹⁶. The land could perhaps be re-profiled using material from within the site. However, I accept the appellant's calculation that this would still leave a

¹⁵ The County Council is the Mineral Planning Authority – the Council accepted the content of the SoCG

¹⁶ The minerals SoCG included a scenario in which only 5m depth of mineral would be extracted, leaving a smaller void. However, at the Inquiry no party suggested that, in practice, this would be a likely scenario.

depression up to 7m deep. That seems to me to be an unattractive proposition as a potential housing site. A further possibility explored at the Inquiry was that the excavation could be filled (or partially filled) with inert waste. That scenario would significantly increase the number of HGV movements imposed on the local road network. Moreover, there is some doubt regarding the availability of a sufficient supply of inert fill material.

78. Drawing together all of the above points, it appears to me that, on balance, prior extraction is unlikely to be a practical solution to the potential sterilisation of mineral reserves at this site. In my view there was sufficient information before the Inquiry to satisfy the policy requirement for prior extraction to be considered before permission is granted for surface development.
79. At the Inquiry there was discussion about whether a hypothetical planning application for prior extraction would be found to be in conflict with EMLP Policy S6. The disagreement between the parties on this point turned on alternative interpretations of the policy. However, as there is no such application before me it is not necessary for me to come to a finding in relation to Policy S6. My conclusions on prior extraction have been reached by reference to the evidence before the Inquiry on the practical considerations pertaining to the appeal site.
80. It is also appropriate to consider the timescale for prior extraction because it is relevant to the overall planning balance. At the Inquiry the Council's minerals witness accepted that excavation and infilling could take up to 10 years. Even if there were no infilling, extraction could take 4 to 6 years¹⁷. These figures were not disputed by the appellant's minerals witness and I see no reason to doubt them.

Conclusion on the fourth main issue

81. It is common ground that a mineral deposit of economic importance would be sterilised by the appeal scheme. However, the requirement of EMLP Policy S8 to consider prior extraction has been satisfied. If the proposal is found to be acceptable in principle then Policy S8 would not provide a reason for withholding planning permission.
82. The Council placed emphasis on paragraph 144 of the Framework, together with related advice in Planning Practice Guidance. This paragraph states that local planning authorities should give great weight to the benefits of mineral extraction. It is important to bear in mind that the EMLP was adopted in 2014 and post-dates the Framework. It can therefore be assumed that it is consistent with the Framework and that the EMLP does indeed give great weight to the benefits of mineral extraction. I return to the interaction between paragraphs 144 and 14 of the Framework in the concluding section of my decision.

Other matters

Social and economic considerations

83. There is currently a shortage of deliverable housing land in the District, with the identified supply being around 3.1 to 3.8 years. The Council and the appellant agreed that the appeal site could make a significant contribution to addressing this deficit. This is an important factor weighing in support of the

¹⁷ Inspector's note – these estimates were given by Ms Tomalin in answer to questions from Mr Carter

appeal. The Strategic Housing Market Assessment has identified a need for over 200 affordable dwellings per year, a figure which is well above the recent rate of delivery. The ability of the scheme to deliver 40% of the units as affordable housing is a further important positive factor.

84. Whilst it has been identified that health and education facilities are under pressure, appropriate mitigation would be secured through the UU. Provision of land for an early years/childcare facility within the appeal site would meet the needs of the appeal scheme and would also facilitate the provision of additional capacity. This would be beneficial to the wider community.
85. The scheme would bring economic benefits in terms of investment and employment during the construction phase. The new residents would generate additional expenditure within the local economy. Whilst there would be a loss of productive agricultural land, this would not be the best and most versatile land as defined in the Framework. My overall assessment is that the proposal would bring significant social and economic benefits to which I attach substantial weight.

Environmental considerations

86. The application was supported by an Ecological Appraisal and by the ES. The site is not subject to any nature conservation designations. Much of the site comprises arable and pastoral land of limited conservation value. One important hedgerow (as defined in the Hedgerow Regulations) has been identified, which would be retained and enhanced. The majority of the hedgerows would be retained although the substantial hedgerow along the southern boundary would need to be removed. Bat activity has been identified, particularly along the eastern boundary. There are also some notable breeding bird species. Other protected species have been considered and their presence is thought to be unlikely.
87. The illustrative alternative development framework shows how mitigation could be integral to the layout of the site, with linear habitat features being retained and enhanced with new green infrastructure. The attenuation basins could be designed to maximise their potential to enhance biodiversity. The Ecological Appraisal identifies specific mitigation measures in relation to bats and breeding birds.
88. The ES considers the impact of Bradwell Quarry and a proposed waste facility on the proposed houses, concluding that there would be no significant adverse effects.
89. Overall, the scheme would have some adverse impacts on habitats and species. However, I consider that appropriate mitigation could be secured through the reserved matters and through conditions. Subject to that, the adverse impacts are likely to be fully mitigated and there may be some modest gain to biodiversity. I conclude that impacts on biodiversity should not weigh significantly for or against the appeal.

Other matters raised in the representations

90. Those who spoke at the Inquiry and those who made written representations raised a number of concerns, many of which have been covered above. One point raised by several people is the scale of the proposed development, particularly when considered alongside other planned development at Silver

End. Attention was also drawn to the amount of housing under consideration at other locations in the surrounding area. Such concerns are understandable. Nevertheless, the Council's evidence explains why its current assessment of housing need is well above the level of need reflected in the CS. The evidence also sets out some of the measures the Council is taking to address the need for housing in the District.

91. Concerns were also expressed regarding highway safety and the capacity of the highway network. The application was supported by a transport assessment and there was a SoCG on highways matters. The illustrative access drawing shows one way in which the site could be provided with vehicular access to Western Road. I saw that, subject to the removal of the hedgerow, it would be possible to achieve the necessary visibility splays. The highway authority is satisfied that the proposed junctions would operate safely and I see no reason to take a different view. The SoCG notes that the traffic generation and distribution set out in the transport assessment is agreed by the highway authority and that the modelling of key junctions in the wider network has shown that there would not be any severe traffic impacts.

Conclusions

The development plan

92. The proposal relates to a greenfield site, outside the settlement boundary of Silver End. As such it would conflict with CS policy CS5 and BDLP Policy RLP 2. These policies seek to protect the countryside by restricting development outside settlement boundaries. It would also conflict with Policies RLP 100 and RLP 95 because there would be some harm to the settings of Bowers Hall and barns and the Silver End Conservation Area. I have not identified any conflict with Policies CS8, CS9, CS11, RLP 80, RLP 81 and RLP 90 which relate to landscape, historic environment, infrastructure, trees and design. Nor have I identified conflict with EMLP Policy S8 in relation to prior extraction of minerals. Nevertheless, the conflict with Policies CS5, RLP 2, RLP 100 and RLP 95 leads me to conclude that the proposal should be regarded as being in conflict with the development plan as a whole.

Other material considerations

93. The Council cannot demonstrate a 5 year supply of housing sites. In accordance with the Framework it follows that relevant policies for the supply of housing are not to be regarded as up-to-date. I note that the Council is taking steps to boost the supply of housing. Nevertheless, having regard to the current housing land supply position, I consider that only limited weight should be attached to the conflict with Policies CS5 and RLP 2.
94. BDLP Policies RLP 100 and RLP 95 seek to protect listed buildings, conservation areas and their settings. However, the policies are not consistent with the approach to the historic environment set out in the Framework which requires harm to the significance of heritage assets to be balanced against any public benefits. I therefore attach limited weight to the conflict with Policies RLP 100 and RLP 95 and greater weight to the advice in paragraph 134 of the Framework, which I turn to next.
95. The failure to preserve the setting of Bowers Hall and barns is a matter of considerable importance and weight, notwithstanding my conclusion that the

degree of harm would be minor. For the reasons given above, I consider that the effect of the appeal scheme on the setting of the conservation area, and hence on its significance, would be so limited that it should attract little weight in the planning balance. I attach substantial weight to the significant social and economic benefits which would flow from the delivery of new housing, including affordable housing. These public benefits would, in my view, be sufficient to outweigh the harm to the significance of the heritage assets. The proposal would therefore accord with the Framework insofar as it relates to the historic environment.

96. I now return to paragraph 144 of the Framework which I referred to under the fourth main issue. Amongst other matters, it states that local planning authorities should not normally permit other development proposals in mineral safeguarding areas where they might constrain future use for these purposes. For the reasons given above I consider that there would be significant practical difficulties in extracting the minerals from the appeal site. It appears to me that the appeal scheme is unlikely to constrain potential future use of the site for mineral extraction because mineral extraction is unlikely to happen in any event. I do not regard the appeal scheme as being in conflict with the Framework as it relates to minerals.
97. Having regard to my finding that the appeal site is not a '*valued landscape*', together with my conclusions on the historic environment and minerals, my overall conclusion is that this is not a case where there are specific policies of the Framework that indicate that development should be restricted. In these circumstances paragraph 14 of the Framework requires the adverse impacts to be weighed against the benefits.
98. For the reasons given above, I consider that the main adverse impacts would be the sterilisation of a mineral resource, the harm to the setting of Bowers Hall and barns and harm to the landscape. With regard to minerals, it is relevant to bear in mind that this is neither a preferred site for mineral extraction (as identified in the EMLP), nor is it a reserve site. Whilst the site is within a MSA, I attach only limited weight to this factor because prior extraction is unlikely to be a practical solution here. Moreover, even if it were a practical solution, the timescales involved would negate (or largely negate) the benefit of an early contribution to housing delivery.
99. I have concluded that the proposal would result in moderate harm to landscape character and that there would be some significant adverse visual impacts, particularly for users of FP53. However, the visual impacts would be localised and mitigation could be achieved as part of the detailed design of the scheme. I have commented above on the degree of harm to the setting of the listed buildings.
100. Turning to the benefits, I attach substantial weight to the social and economic benefits of the delivery of housing, including affordable housing. The provision of land for an early years/childcare facility would also be a benefit to which some weight should be attached. My overall assessment is that the adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. Consequently, material considerations indicate that permission should be granted notwithstanding the conflict with the development plan.

Conditions

101. The Council and the appellant submitted a Comparison Table of suggested conditions on which there was a wide measure of agreement. I have considered those suggestions in the light of Planning Practice Guidance and in some cases I have merged conditions or adjusted detailed wording to reflect that guidance and in the interests of clarity.
102. Conditions 1 to 3 are standard conditions for outline planning permissions. I have reduced the standard time periods because the ability to make an early contribution to housing delivery has been an important matter in this case. Conditions 4 and 5 limit the amount and height of the development to ensure that it is consistent with the parameters envisaged when the assessments supporting the application were carried out. Condition 6 requires details of levels in the interests of the character and appearance of the area. Condition 7 seeks compliance with parking standards to ensure that proper provision is made for the vehicles of the occupiers.
103. Condition 8 requires a scheme of archaeological investigation in order to protect the archaeological potential of the site. Condition 9, which deals with potential contamination, is needed to manage risks of pollution. Condition 10 requires a Construction Management Plan to be approved. This is necessary in the interests of highway safety, amenity, air quality and managing risks of pollution and flooding during the construction process. Condition 11 requires details of tree protection measures in the interests of biodiversity and the character and appearance of the area. Conditions 12 and 13 deal with the protection of habitats and nesting birds and condition 14 requires submission of a Landscape and Ecology Management Plan, all in the interests of protecting and enhancing the biodiversity of the site.
104. Condition 15 requires approval of details of noise mitigation to protect the living conditions of future occupiers. Conditions 16 and 17 deal with details of surface water drainage, and subsequent maintenance thereof, in the interests of managing risks of flooding and pollution. Condition 18 sets out matters to be included in the landscape reserved matters submission in the interests of the character and appearance of the area. Condition 19 requires approval of details of external lighting in the interests of mitigating impacts on biodiversity and protecting the character and appearance of the area. Condition 20 relates to details of refuse and recycling storage in the interests of sustainable development.
105. Condition 21 seeks to ensure that 40% of the units are delivered as affordable housing, in accordance with development plan policy and the Framework. The Council and the appellant agreed the principle of the condition but suggested alternative drafting. I have preferred the appellant's drafting which, whilst less prescriptive, appears to me to cover those matters which are important in terms of securing the policy objective of delivering affordable housing. I also note that the appellant's drafting is similar to conditions used in other appeal decisions which were before the Inquiry¹⁸.
106. Condition 22 requires the new access to be built as a first operation on site in the interests of highway safety. Condition 23 requires provision of a pedestrian/cycle link to Daniel Way. For reasons discussed more fully under the

¹⁸ CD11.2 – APP/C1625/A/13/2207324, condition 20 and CD11.5 – APP/X0360/2209286, condition 12

first main issue, I consider that this condition is necessary to ensure that the scheme would take up the opportunities for sustainable transport modes. Conditions 24, 25 and 26 require provision of bus stop enhancements, a footway along Western Road and a pedestrian crossing. These conditions are also needed in the interests of promoting sustainable transport modes. Condition 27 requires new planting to be set back from the visibility splays in the interests of highway safety. Condition 28 requires any diversion Order for FP53 (if needed) to be obtained at an early stage to ensure continued accessibility and safety for those using the path.

107. Some conditions require matters to be approved before the start of development. This is necessary for conditions 8 to 12 and 28 because these conditions address impacts arising during construction. It is necessary for conditions 14 to 16, 21 and 23 because these conditions may affect the design and/or layout of the development.

David Prentis

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Paul Shadarevian and Matt Lewin	of Counsel, instructed by Braintree District Council
He called	
Adrian Gascoyne FSA MCIfA	Head of Place Services, Essex County Council
Gill Wynne-Williams BA(Hons) DipLA CMLI	Managing Director, Wynne-Williams Associates
Claire Tomalin BSc MTP MRTPI	Principal Planner, Minerals and Waste Planning Team, Essex County Council
Terry Hardwick BSc MA MRTPI	Planning Consultant

FOR THE APPELLANT:

Martin Carter	of Counsel, instructed by Peter Dutton of Gladman Developments Ltd
He called	
Stephen Barry BSc MBA FRICS CGeol	Technical Director, Wardell Armstrong LLP
Gail Stoten BA(Hons) MCIfA FSA	Heritage Director, Pegasus Group
Jonathan Berry BA(Hons) DipLA CMLI AIEMA MArborA	Partner, Tyler Grange LLP
Peter Dutton BA(Hons) MCD MRTPI	Senior Planner, Gladman Developments Ltd

INTERESTED PERSONS:

Cllr Philip Hughes Cllr James Abbott BSc(Hons)	Member of Silver End Parish Council Member of Braintree District Council and Essex County Council
Blaise Gammie	Education Department, Essex County Council
<i>Local residents</i> Robert Gordon Jonathan Barker Colin White	

DOCUMENTS SUBMITTED AT THE INQUIRY

	<i>Documents submitted by the Local Planning Authority</i>
LPA1	Appearances
LPA2	Opening submissions
LPA3	Extract from EMLP
LPA4	Statement of Compliance with the CIL Regulations
LPA5	Open Spaces Action Plan
LPA6	Closing submissions
LPA6(a)	Bovis Homes & Miller Homes v SSCLG [2016] 2952 (Admin)
LPA6(b)	Watermead Parish Council v Aylesbury Vale DC [2016] EWHC 624 (Admin)

	<i>Documents submitted by the appellant</i>
GLD1	Appearances
GLD2	Opening submissions
GLD3	Draft UU (day 1)
GLD4	Draft UU (day 5)
GLD5	Closing submissions
GLD5(a)	Supreme Court Practice Direction
GLD5(b)	Forest of Dean DC v SSCLG [2016] EWHC 421 (Admin)

	<i>Agreed documents</i>
LPA/GLD1	Conditions – comparison table (day 1)
LPA/GLD2	Planning SoGC
LPA/GLD3	Landscape SoCG
LPA/GLD4	Note on calculations for re-profiling solutions
LPA/GLD5	Landscape sections
LPA/GLD6	Conditions – comparison table (day 5)

Other documents
Bundle of letters submitted by Cllr Abbott

DOCUMENTS SUBMITTED AFTER THE INQUIRY

GLD6	Completed Unilateral Undertaking dated 8 February 2017
GLD7	Addendum to closing submissions dated 17 February 2017

Schedule of conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 1 year from the date of approval of the last of the reserved matters to be approved.
- 4) The submission of reserved matters applications pursuant to this outline planning permission shall together provide for no more than 350 dwellings, public open space, landscaping, surface water attenuation and associated infrastructure.
- 5) No building erected on the site shall exceed three storeys in height, with the exception of any rooms within the roof space.
- 6) Any reserved matters application relating to the scale and layout of the development shall be supported by a plan or plans that provide full details of all finished floor levels of all buildings, expressed relative to existing site levels and Ordnance Datum.
- 7) Car parking across the development shall be provided in accordance with the minimum standards set out in the '*Essex Parking Standards: Design & Good Practice*' (2009), which are adopted by the local planning authority for the assessment of planning applications.
- 8) No development or preliminary ground works shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 9) No development shall take place until a comprehensive survey to assess the nature and extent of any contamination on the site has been carried out and a report of the survey findings together with a remediation scheme to bring the site to a suitable condition (in that it represents an acceptable risk) has been submitted to and approved in writing by the local planning authority. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with '*Model Procedures for the Management of Land Contamination, CLR 11*'. The remediation scheme shall be implemented and completed prior to the commencement of the development hereby approved.

Notwithstanding the above, should contamination be found that was not previously identified it shall be reported immediately to the local planning authority. The site shall be re-assessed in accordance with the above and a further remediation scheme shall be submitted for the approval in writing of the local planning authority. The further remediation scheme

shall be implemented and completed prior to the first occupation of any part of the development hereby approved.

Following completion of the remediation scheme a validation report undertaken by competent persons confirming that the remediation has been carried out in accordance with the documents and plans comprising the approved remediation scheme shall be submitted to the local planning authority.

- 10) No development shall take place, including any ground works or site clearance, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall provide for the following all clear of the highway:
- a. the parking of vehicles of site operatives and visitors
 - b. loading and unloading of plant and materials
 - c. safe access to/from the site
 - d. storage of plant and materials used in constructing the development
 - e. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - f. wheel and underbody washing facilities
 - g. measures to control the emission of dust and dirt during construction
 - h. a scheme for recycling/disposing of waste resulting from demolition and construction works
 - i. a scheme to control noise and vibration during the construction phase, including details of any piling operations
 - j. a scheme for safeguarding public rights of way
 - k. hours of demolition and construction work, including the operation of plant and machinery, the delivery of materials and the removal of waste
 - l. a scheme to minimise the risk of off-site flooding caused by surface water run-off and/or groundwater

The approved CMP shall be adhered to throughout the construction period.

- 11) No development shall take place, including any ground works or site clearance, until details of the means of protecting trees, shrubs and hedges within and adjacent to the site has been submitted to and approved in writing by the local planning authority. The details shall be generally in accordance with recommendations of the tree mitigation strategy set out in the Arboricultural Assessment submitted by FPCR dated November 2016 and shall include the protection of roots from injury or damage prior to or during the development works. The local planning authority shall be notified in writing at least 5 working days prior to the commencement of development on site. The approved means of protection shall be installed prior to the commencement of any building or engineering works or other activities on the site and shall be adhered to throughout the construction period.
- 12) No development shall take place, including any ground works or site clearance, until details of the means of protecting retained habitats on site have been submitted to and approved in writing by the local planning

- authority. The details shall be generally in accordance with the recommendations of the FPCR Ecology Appraisal. The approved means of protection shall be installed prior to the commencement of any building or engineering works or other activities on the site and shall be adhered to throughout the construction period.
- 13) No clearance of trees and shrubs in preparation for (or during the course of) development shall take place during the bird nesting season (March - August inclusive) unless a bird nesting survey has been submitted to and approved in writing by the local planning authority. If such a survey reveals the presence of any nesting birds, then no development shall take place within those areas identified as being used for nesting during the period specified above.
 - 14) No development shall commence until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP shall include the provision of nest/roost sites for bats and birds together with arrangements for long term habitat management. Development shall be carried out in accordance with the approved LEMP prior to the first occupation of any dwelling house hereby approved and shall be permanently retained as such thereafter.
 - 15) No development shall commence until a scheme for protecting the development from environmental noise has been submitted to and approved in writing by the local planning authority. The scheme shall be generally in accordance with the Noise Assessment produced by Wardell Armstrong dated July 2015. No dwelling hereby approved shall be occupied until any noise protection measures relevant to it have been carried out in accordance with the approved scheme.
 - 16) No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the local planning authority. If the development is undertaken in phases then no phase shall commence until a scheme for that phase has been so approved. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-ecological context of the development. The approved scheme shall be implemented in accordance with the timing/phasing arrangements embodied within it, or within any other period agreed in writing by the local planning authority, and shall thereafter be permanently managed and maintained as such.
 - 17) Prior to first occupation of any dwelling hereby permitted, a maintenance plan for the surface water drainage system shall be submitted to and approved in writing by the local planning authority. The plan shall identify who is responsible for the various elements of the surface water drainage system, the maintenance activities and frequencies required and the methods of reporting and logging such activities. Thereafter the surface water drainage system shall be permanently maintained in accordance with the approved plan.
 - 18) Any scheme of landscaping submitted pursuant to Condition 1 of this planning permission shall incorporate a detailed specification of all soft and hard landscaping works, including all fences and walls. This shall include details of all plant/tree types and sizes, planting numbers and distances, soil specification, seeding and turfing treatment, areas of

wildflower grassland, colour and type of material and method of laying for all hard-surface areas.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority.

All planting, seeding or turfing contained in the approved landscaping details shall be carried out in the first planting and seeding seasons after completion of the relevant phase of the development, unless otherwise previously agreed in writing by the local planning authority.

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the dwelling to which the hard landscaping relates.

Any trees and 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.

- 19) All applications for approval of reserved matters submitted pursuant to Condition 1 of this planning permission relating to the appearance, layout and scale of buildings (whether this is for the development as a whole or for a particular phase) shall be accompanied by a Lighting Scheme. The Lighting Scheme shall comprise a layout plan and manufacturer's technical details of the external lighting to be installed, including a schedule of luminaire types, mounting, height, aiming angles, luminaire profiles and energy efficiency. No dwelling shall be occupied until the external lighting relevant to that dwelling is available for use. All external lighting shall be installed, maintained and operated in accordance with the approved details and there shall be no other sources of external illumination unless otherwise agreed in writing by the local planning authority.
- 20) All applications for approval of reserved matters submitted pursuant to Condition 1 of this planning permission relating to the appearance, layout and scale of buildings (whether this is for the development as a whole or for a particular phase) shall be accompanied by details of the location and design of the refuse bins and recycling materials separation, storage areas and collection points. Where the refuse collection vehicle is required to go onto any road, that road shall be constructed to take a load of 26 tonnes. No dwelling shall be occupied until the refuse bins and, where applicable, storage areas and collection points, for that dwelling have been provided and are available for use.
- 21) No development shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

- i) the numbers, type and location on the site of the affordable housing provision which shall consist of not less than 40% of the dwellings
 - ii) the tenure, which shall be split 70% affordable rented and 30% intermediate with the dwellings distributed across the site (and if the scheme is undertaken in phases across each phase of development)
 - iii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing, with no more than 80% of the open market dwellings being occupied before the affordable housing is completed and available for occupation (this timing will apply to each phase if the scheme is undertaken in phases)
 - iv) the arrangements for the transfer of the affordable housing to a Registered Provider or for the management of any affordable housing if no Registered Provider is involved
 - v) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing including arrangements (where appropriate) for the subsidy to be recycled for alternative affordable housing provision
 - vi) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced
 - vii) that the affordable homes are built to the standards set by the Homes and Communities Agency at the time of development
- 22) The site access (or accesses) shall be constructed to at least base course level, with the provision of suitable visibility splays, in accordance with a detailed design which has been approved as a reserved matter pursuant to Condition 1 before the commencement of any other part of the development hereby approved.
- 23) No development shall commence until a scheme for the provision of a pedestrian/cycle way linking the pedestrian/cycle routes within the site to Daniel Way has been submitted to and approved in writing by the local planning authority. The pedestrian/cycle way shall be provided in accordance with the approved scheme prior to the occupation of any dwelling hereby approved (or, if the development is undertaken in phases, in accordance with an implementation programme forming part of the approved scheme) and shall thereafter be permanently retained as such.
- 24) Before first occupation of any dwelling hereby approved, the existing bus stop on the eastbound carriageway of Western Road shall be relocated and upgraded in accordance with a detailed design and specification to be submitted to and approved in writing by the local planning authority. The relocated bus stop shall be in a position outside the visibility splays and the detailed design and specification shall provide for a raised kerb (to provide level access), a shelter, a flag, real time passenger information and road markings. Before first occupation of any dwelling hereby approved, the bus stop opposite the site on the westbound carriageway of Western Road shall be upgraded by the provision of real time passenger information in accordance with a specification to be submitted to and approved in writing by the local planning authority.
- 25) Before first occupation of any dwelling hereby approved, a 2m wide footway shall be provided across the Western Road frontage of the site to

the west of any new access to be provided into the site to link to the existing footway on Western Road to the west of the site. If there is to be more than one access into the site, the required footway shall extend between the access points to be formed. The footway shall be provided in accordance with a detailed design and specification to be submitted to and approved in writing by the local planning authority and shall make appropriate connection with Public Right of Way 53 Silver End.

- 26) Before first occupation of any dwelling hereby approved, a pedestrian crossing on Western Road shall be provided as part of the access arrangements to be approved as a reserved matter pursuant to Condition 1. This shall include a pedestrian refuge, with associated dropped kerbs and tactile paving, and shall be located in the vicinity of the access (or accesses) to be provided and the bus stops serving the site.
- 27) Any new boundary planting to the Western Road frontage of the site shall be planted a minimum of 1 metre back from the highway boundary and from the line of any visibility splay required to be provided to serve the access (or accesses) into the site, whichever is the further.
- 28) In the event that it should be necessary to divert Public Right of Way 53 Silver End, no development hereby approved shall be commenced until such time as an Order securing the diversion of the existing definitive right of way has been secured.

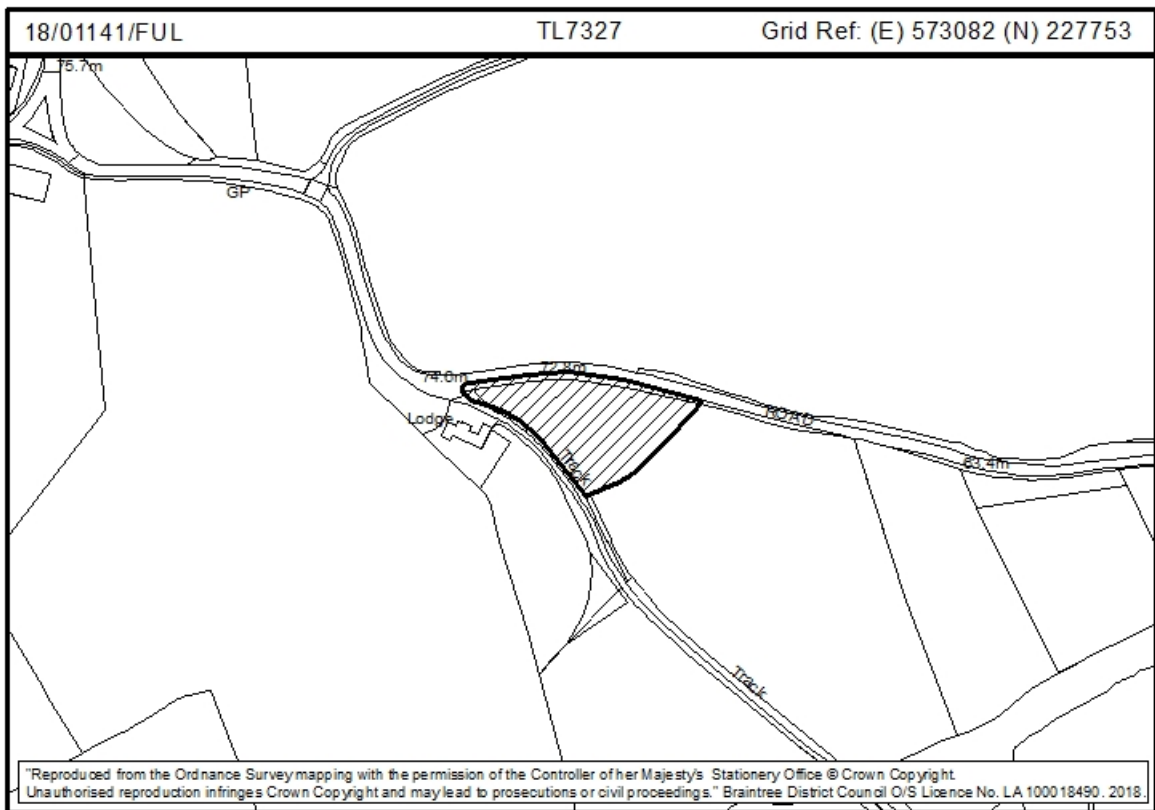
End of conditions

AGENDA ITEM NUMBER 5h

PART B

APPLICATION NO: 18/01141/FUL DATE: 12.06.18
VALID:
APPLICANT: Mr Mark Faulkner
Abbots Hall, Braintree Road, Shalford, Braintree, CM7 4QT
AGENT: Andrew Martin Planning
Town Mill, Mill Lane, Stebbing, Dunmow, Essex, CM6 3SN
DESCRIPTION: Proposed new northern access to Abbots Hall and grounds.
LOCATION: Abbots Hall, Braintree Road, Shalford, Essex, CM7 5HG

For more information about this Application please contact:
Juliet Kirkaldy on:- 01376 551414 Ext. 2558
or by e-mail to: juliet.kirkaldy@braintree.gov.uk



SITE HISTORY

01/02139/FUL	Proposed alterations to stables and the ancillary buildings to create a dwelling tied to Abbots Hall.	Granted with S106 Agreement	23.01.03
01/02140/LBC	Proposed alterations to stables and the ancillary buildings for new house	Granted with S106 Agreement	23.01.03
02/00195/FUL	Provision of new barn and car lodge at courtyard and repair main entrance gates and walls	Granted	03.07.02
02/00196/LBC	Provision of new barn and car lodge at courtyard and repair main entrance gates and walls	Granted	03.07.02
02/01690/FUL	Erection of garden room	Withdrawn	05.09.02
02/01691/LBC	Erection of new garden room, new doorway to existing kitchen, replacement of glass to veranda roof	Withdrawn	05.09.02
02/01897/FUL	Erection of new garden room	Granted	04.12.02
02/01898/LBC	Erection of new garden room, doorway to existing kitchen and replacement of glass to verandah roof	Granted	04.12.02
03/01978/LBC	Internal alterations	Granted	05.12.03
03/02360/FUL	Re-routing of access road to show a formal approach to the house	Granted	08.03.04
03/02361/LBC	Re-routing of access road to show a formal approach to the house	Granted	08.03.04
04/00904/FUL	Erection of new barn and manege	Granted	05.07.04
04/01737/LBC	Proposed improvements/minor alterations to north west elevation	Granted	27.09.04
05/00007/LBC	Proposed new kitchen in billiards room	Granted	15.02.05
08/00315/FUL	Erection of new garden room	Granted	10.04.08
08/00316/LBC	Erection of new garden room and doorway to existing kitchen	Granted	10.04.08
08/01053/LBC	Proposed works to front	Granted	22.08.08

	elevation - remove modern bay window; proposed new balcony at first floor level; replace two existing sash windows with casement doors; replace masonry paint on stone porch with pozilime. Proposed works to rear elevation - replace existing Georgian wired glass to verandah roof with clear toughened		
08/02267/FUL	Erection of open-sided three bay garage with log store to side	Granted	05.02.09
09/00095/DAC	Application for approval of details reserved by conditions of approvals 04/01737/LBC and 08/01053/LBC	Granted	25.06.09
10/00015/TPO	Notice of intent to carry out work to tree protected by Tree Preservation Order 3/53 - Fell Oak tree	Granted	19.03.10
11/00353/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order 29/10 - Carry out crown reduction approx by 2-3m and cut back side branches approx 3m to reduce weight of 1 Walnut tree	Pending Decision	
13/00219/FUL	Change of use from residential to Wedding Venue, minor internal alterations to hall, new bay window and covered walkway to west elevation, erection of garden room and function room within walled garden and alteration to position of access.	Withdrawn	21.08.13
13/00220/LBC	Change of use from residential to Wedding Venue, minor internal alterations to hall, new bay window and covered walkway to west elevation, erection of garden room and function room within walled	Withdrawn	21.08.13

14/01406/FUL	garden and alteration to position of access. To create a new potting shed - extend roof over existing structure, fill in rear wall and add a door	Granted	16.12.14
14/01407/LBC	To create a new potting shed - extend roof over existing structure, fill in rear wall and add a door	Granted	16.12.14
14/01408/FUL	Install new second floor window in side elevation	Granted	16.12.14
14/01409/LBC	Install a new window in second floor of side west elevation. Removal of bricked up section of window opening on second floor and install a new sash casement window to exact design and materials as existing windows	Granted	16.12.14
14/01410/FUL	Replacement of first floor bay window and single storey side infill extension and associated alterations	Granted	16.12.14
14/01411/LBC	Replacement of first floor bay window and single storey side infill extension and associated alterations	Granted	16.12.14
14/01412/LBC	Replacement of rear veranda glass roof with a new lead roof	Granted	16.12.14
14/00365/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order 29/10 - Carry out works to trees as detailed in the Tree Schedule	Granted	06.01.15
14/01520/FUL	Erection of glass house with double lobby and hipped ends	Granted	13.01.15
14/01521/LBC	Erection of glass house with double lobby and hipped ends	Granted	13.01.15
14/01583/FUL	Proposed internal alterations to entrance hall	Permission not Required	13.02.15
14/01584/LBC	Proposed internal alterations to entrance hall	Granted	13.02.15
15/00044/DAC	Application for approval of	Granted	12.03.15

15/00064/DAC	<p>details reserved by condition nos. 3 and 4 of approved application 14/01584/LBC</p> <p>Application for approval of details reserved by condition nos. 3 and 4 of approved application 14/01521/LBC</p>	Granted	12.03.15
15/00299/FUL	Remodelling of walled garden and construction of new swimming/lap pool; alterations to existing outbuilding to form a garden kitchen; retrospective permission for building of wood shed between existing outbuildings and conversion of cart lodge into music room.	Granted	29.04.15
15/00300/LBC	Remodelling of walled garden and construction of new swimming/lap pool; alterations to existing outbuilding to form a garden kitchen; retrospective permission for building of wood shed between existing outbuildings and conversion of cart lodge into music room.	Granted	29.04.15
15/00072/DAC	Application for approval of details reserved by condition no. 3 of approved application 14/01409/LBC	Granted	20.04.15
15/00073/DAC	Application for approval of details reserved by condition no. 3 of approved application 14/01411/LBC	Granted	19.03.15
15/00074/DAC	Application for approval of details reserved by condition no. 3 of approved application 14/01407/LBC	Granted	19.03.15
15/00075/DAC	Application for approval of details reserved by condition no. 3 of approved application 14/01409/LBC	Granted	19.03.15
15/00105/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order	Granted	08.06.15

15/00118/DAC	29/10 - Fell 2 Chestnut trees and 2 Ash trees Application for approval of details reserved by condition no. 3 of approved application 15/00299/FUL	Granted	10.07.15
15/00122/DAC	Application for approval of details reserved by condition no. 3 of approved application 15/00300/LBC	Granted	02.09.15
15/00736/FUL	Replacement of existing veranda.	Granted	27.07.15
15/00737/LBC	Replacement of existing veranda.	Granted	27.07.15
15/00303/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order 29/10 - Remove 1 dead Ash tree and replace with 4 Native Species trees and Remove 1 mature Lime tree and replace with several new trees	Granted	18.11.15
15/00390/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order 29/10 - Remove 1 mature Ash tree and replace, Remove Lime pollard and Remove 1 Sycamore	Part Grant, Part Refused	01.02.16
18/00135/FUL	Retrospective application for the retention of a galvanised steel water storage tank within the curtilage of Abbots Hall to provide an irrigation source for the estate gardens and as an emergency water store in the event of a fire	Granted	22.03.18
18/00136/FUL	Retrospective application for the retention of two glasshouses, one sited to the south of the existing manege, and one to the south of the Coach House	Granted	19.03.18
18/00619/FUL	Retrospective application for remodelling of the landscaped grounds and for the creation of a new lake and the extension of an	Granted	26.07.18

18/00620/LBC	<p>existing lake within the curtilage of Abbots Hall and drive realignment to the north west of the hall along with a new forecourt to the immediate north west of Abbots Hall and emplacement of ground source heating pipes and two associated ground source heat pumps in the western area of the site.</p> <p>Retrospective application for remodelling of the landscaped grounds and for the creation of a new lake and the extension of an existing lake within the curtilage of Abbots Hall and drive realignment to the north west of the hall along with a new forecourt to the immediate north west of Abbots Hall and emplacement of ground source heating pipes and two associated ground source heat pumps in the western area of the site.</p>	Granted	26.07.18
18/00637/HHPA	<p>Erection of single storey rear conservatory. Extension will extend beyond rear wall of the original house by 5m, with a maximum height of 3.450m and 2.350m to the eaves of the extension</p>	Permission not Required	15.05.18
18/01142/LBC	Proposed new northern access to Abbots Hall and grounds.	Pending Consideration	
18/00267/TPO	<p>Notice of intent to carry out works to trees protected by Tree Preservation Order 29/10 - Tree 1 - Horse Chestnut - This needs to be reduced to 25 feet (trunk) as canopy is dangerous due to age and fungal rot. (Tree officer has visited site and seen this tree) Tree 2 - Ash</p>	Granted	30.10.18

- This needs to be felled as dangerous, due to fungal rot. (Tree officer has visited site and seen this tree) Tree 3 - Field Maple - This needs to be felled as completely rotted and also beside road, therefore dangerous

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 Publication 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 joint North Essex-Authorities (NEAs) have received a post hearing letter dated 8th June 2018. This letter outlined a number of shortcomings about the Garden Communities in the Section 1 Plan relating to transport infrastructure, employment, viability, and the sustainability appraisal.

The letter has outlined 3 options for how to proceed with the Section 1 Publication Draft Local Plan.

- Option 1 – Remove the Garden Communities proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time.
- Option 2 – The NEAs carry out further work on evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2 examinations. This option would result in the suspension of the examination, and the part 2 examination could not take place.
- Option 3 – Withdraw Section 1 and Section 2 of the Plans from examination and to resubmit them with any necessary revisions, after carrying out required further work on the evidence base and Sustainability Appraisal, and the relevant consultation and other procedures required by legislation.

A further Supplementary Post-hearing letter dated 27th June has also been received. This letter provided the Inspectors views on policy SP3 of the Section 1 Plan which covers housing requirements. The letter concludes that the housing requirement figures for each of the NEAs set out in policy SP3 is its respective objectively-assessed housing need, which for Braintree is 716 dwellings per annum.

The North Essex Authorities have agreed to produce further evidence to present to the Planning Inspector on the section 1 Local Plan. The authorities will need to agree with the Planning Inspector a timetable for the completion of this work, but this will result in a delay to the adoption of the Local Plan.

In accordance with paragraph 48 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 48 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
RLP90	Layout and Design of Development
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings

Braintree District Local Development Framework Core Strategy 2011

CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment
CS5	The Countryside

Braintree District Publication Draft Local Plan 2017

LPP50	Built and Historic Environment
LPP1	Development Boundaries
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings

Other Material Considerations

Essex Parking Standards

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to the Planning Committee as the Parish Council have objected to the application contrary to the officer recommendation.

SITE DESCRIPTION

- Abbots Hall is Grade II listed
- The site is situated outside of the defined development boundary
- Abbots Hall is set back from the road frontage.
- The existing access is situated on a sharp bend on the Braintree Road to the north west of Abbots Hall.
- There is a residential property at the entrance to the existing access.

PROPOSAL

The proposal is for the provision of a new northern vehicular access from the B1053 Braintree Road to improve driver visibility and overall safety when entering and exiting the site. The provision of the new access will require the felling of 11 trees plus minor surgery to 3 trees to permit construction space and access.

CONSULTATIONS

ECC Historic Buildings Consultant

No objection

ECC Highways

Considers it unlikely that 2.4m x 90m vision splays to the east around the bend, as is indicated on the submitted drawings can be provided. The applicant should be asked to review the drawing and submit a further plan demonstrating the exact splay.

Following this consultation response, the agent subsequently submitted a further plan (reference 'IT1254/DD/02') illustrating that the visibility splays 2.4m x90m can be achieved. Essex County Council Highways were re consulted and they concluded that the proposed access offers an improvement for vehicles egressing Abbots Hall onto Braintree Road and is acceptable subject to conditions. The conditions related to the visibility splays and that the existing access along Braintree Road is permanently closed and reinstated to full height of the highway verge. They also proposed an informative relating to wheel cleaning and surface water.

BDC Landscape Services

No objection - the proposed tree removal on the frontage will have a limited overall impact and it is not consider that this will unduly diminish appearance and amenity of this aspect. It is noted that significant amount of planting has taken place throughout the site over recent years.

BDC Ecology

No objection – subject to the precautionary methods and mitigation to reduce impact as detailed in the Preliminary Ecological Appraisal are detailed in a Biodiversity Method Statement which is conditioned.

REPRESENTATIONS

Parish Council

The following representation was received:

The Parish Council were concerned that there is a TPO on Abbots Hall Estate 29/2010/TPO and to change the entrance to the hall would entail taking out several trees. If the new trees are not covered by a TPO could we please put a TPO on these?

The Parish Council are concerned that the new entrance is no safer than the original entrance on to the B1053. The Parish Council would prefer that the original entrance continues to be used.

Neighbour Representations

A site notice was displayed for a 21 day period and immediate neighbours were notified by letter. No representations have been received.

REPORT

PRINCIPLE OF DEVELOPMENT

The application site is situated outside of the defined development boundary and therefore countryside policies apply.

Policy RLP100 of the Adopted Local Plan refers to preserving and enhancing the settings of listed buildings by appropriate control over the development, design and use of adjoining land. This is reiterated in Policy LPP60 of the Draft Local Plan.

Policy RLP90 of the Adopted Local Plan seeks to secure a high standard of design and layout in all new development. This is reiterated in Policy LPP55 of the Draft Local Plan.

Policy CS9 of the Adopted Core Strategy refers to securing the highest possible standards of design and layout in all development and the protection and enhancement of the historic environment.

Policy LPP50 of the Draft Local Plan refers to the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.

Policy CS5 of the Adopted Core Strategy seeks to control development strictly appropriate to the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. Policy LPP1 of the Draft Local Plan further states that development will be strictly controlled to uses appropriate to the countryside to protect the intrinsic character and beauty of the countryside.

Policy CS8 of the Adopted Core Strategy states that all development proposals should take account of the potential impacts of climate change and ensure the protection and enhancement of the natural environment, habitats, biodiversity and geo diversity of the District. Policy LPP68 of the Draft Local Plan refers to the protection of protected species, priority species and priority habitats. Policy LPP69 of the Draft Local Plan refers to the protection of established healthy trees which offer significant amenity value to the locality.

The proposal to create a new access is considered acceptable in principle subject to accordance with the criterion of the above policies and all other material planning considerations which will be discussed below.

SITE ASSESSMENT

Layout, Design and Appearance

The site measures approximately 0.34 ha in size and is triangular in shape comprising a small woodland area. It is stated in the submitted Design and Access Statement that, 'the works comprise the provision of a new northern access to replace the existing access which is currently located on a sharp bend. The design of the new access will improve driver visibility and overall safety when entering and exiting the site'.

The proposed access is to be situated to the north west of Abbots Hall, on the south side of the B1053, Braintree Road. This is approximately 40 metres to the east of the existing access. The existing access is situated adjacent to a residential dwelling (Gate Lodge) to Abbots Hall and is currently the main access to Abbots Hall. The intention of the scheme is for the proposed access to be the main vehicular entrance to Abbots Hall for the owners, staff, guests, visitors and deliveries. The existing access will be retained but restricted to access by vehicles relating to Gate Lodge and articulated lorries. Retention of the existing access is of importance as this represents a historic route forming the original main drive to Abbots Hall.

The proposed access measures approximately 4 metres in width and is approximately 30 metres in length where it then connects with the existing access driveway to Abbots Hall. Surfacing of the proposed access will match that of the existing driveway. The location of the new access has been carefully selected and designed so as to have minimal impact on the existing tree cover at the entrance to Abbots Hall and to maintain the overall setting of the estate.

Heritage Impact

A Heritage Statement has been submitted with the application. It summarises that, '*This will result in a minor alteration to the historical north west access route. It is understood that this is to allow for improved visibility when joining the public highway. It will result in a minor change to the setting of Abbot's Hall and the Stable Block, but will preserve the majority of this historical access route and so is considered to have no impact on the overall significance of Abbot's Hall and the Stable Block*'. In light of the consultation response received from the Historic Buildings Consultant the proposal is not considered to have a detrimental impact on Abbots Hall and complies with the criterion of Policy RLP100 of the Adopted Local Plan 2005, Policy RLP60 of the Draft Local Plan and Policy CS8 of the Adopted Core Strategy.

Impact upon Trees

The site is covered by a Tree Preservation Protection Order. A Tree Survey has been submitted with the application which summarises that it will be necessary to fell 11 individual trees and part of one low quality landscape feature in order to achieve the proposed access. In addition 3 trees will require minor surgery to permit construction space or access. The alignment of the new hard surfacing encroaches within the Root Protection Areas of one tree that is to be retained but given the use of modern 'no dig' construction techniques this is not considered to be a substantial issue. The Tree Survey further notes that the alignment of the new hard surfacing nominally intrudes within the Root Protection Areas of two trees to be retained. However, this has only minor influence on the Root Protection Areas and as such the Survey considers it appropriate to undertake linear root pruning and protective fencing must be erected. Finally, the survey states that post planning permission a detailed Arboricultural Method Statement and Tree Protection Plan will be required. The Landscape Officer has raised no objection to the measures set out within the Tree Survey document.

Ecology

An Ecology Report has been submitted with the application which recommends that the works are carried out with the presence of Badgers borne in mind. It refers to recommendations which should be incorporated within the work Method Statement to protect Badgers during the course of works which includes, establishing an exclusion area, reporting new signs of activity, boarding any holes and trenches and enforcing a low speed limit once the track has been completed. The Ecology Officer has raised no objection subject to conditions.

Impact on Neighbouring Amenity

The proposed new access would provide some improved amenity for the occupants of the existing residential dwelling (cottage) which fronts the existing access. The proposed new access would be situated approximately 30 metres from the existing residential dwelling and therefore would provide some alleviation in terms of visual and noise disturbance from the vehicles that currently pass by.

Highway Considerations

The submitted plan 'IT1254/DD/02' illustrates a visibility splay of 2.4m x 90m to the left and right of the proposed access. The Highways Authority have indicated this is acceptable.

The Highways consultation response indicated that the 'existing access located to the west of the site along Braintree Road as shown on the site layout Drawing No. IT1254/DD/02 shall be suitably and permanently closed'. This was discussed with the planning agent who indicated that the 'existing

access located to the west of the proposed access will need to be retained to provide access to the cottage. It also provides access to the hall for articulated lorries, being the straightest route.'

This was relayed back to the Highway Authority who confirmed that given this reason from the planning agent they were satisfied that the recommended condition to close the existing access is omitted. Officers propose a condition to ensure that the existing access is solely used for access to the cottage and for articulated lorries.

CONCLUSION

The Highway Authority have indicated subject to conditions they are satisfied with the proposed new access and that sufficient visibility splays can be achieved.

The proposed new access will not have a detrimental impact on the setting of Grade II Abbot's Hall and the Stable Block, the majority of the historical access route will be retained and therefore will have no impact on the overall significance of Abbot's Hall and the Stable Block.

The proposal will result in the removal of some trees within the area covered by the Tree Preservation Order however, as noted by the Landscape Officer these works are fairly limited in the overall impact on this boundary and is not considered to unduly diminish the appearance and amenity of this particular aspect.

The proposed new access will alleviate and divert some of the existing visual and noise disturbance created from the vehicles that currently pass by the cottage.

The proposal accords with Policy RLP90 and RLP100 of the Adopted Local Plan and Policies CS5, CS8 and CS9 of the Adopted Core Strategy and Policies LPP1, LPP60, LPP68 and LPP69 of the Draft Local Plan.

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

Tree Plan	Plan Ref: 6689/D/AIA
Block Plan	Plan Ref: 14024/51
Location Plan	Plan Ref: 14024/52
Access Details	Plan Ref: IT1254/DD/02
Technical Information	Plan Ref: DD2 Rev A VIS SPLAYS
Technical Information	Plan Ref: 6681 D -AIA VIS SPLAYS

- 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 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, during and after development and should include:

- o Measures to be used to protect badgers
- o The protection of nesting birds.
- o The protection of bats and their roosts due to any proposed tree works/removal
- o The method statement should also include the proposed ecological enhancement of the site, particularly though new habitat creation and replacement native planting schemes

It should also be noted that the recommendations arising from the PEA are considered by the Applicants Consultant Ecologist to be relevant to March 2019, and if works have not started or the Ecological Conditions change before this date, a new survey will be required.

Reason

In order to assess whether there are protected species in the locality.

- 4 Development shall not be commenced until an Arboricultural Method Statement (AMS) has been submitted and approved in writing by the Local Planning Authority. The AMS will include a Detailed Tree Protection Plan (DTPP) indicating retained trees, trees to be removed, the precise location and design of protective barriers and ground protection, service routing and specifications, areas designated for structural landscaping to be protected and suitable space for access, site storage and other construction related facilities. The AMS and DTPP shall include details of the appointment of a suitably qualified Project Arboricultural Consultant who will be responsible for monitoring the implementation of the approved DTPP, along with details of how they propose to monitor the site (frequency of visits; key works which will need to be monitored, etc.) and how they will record their monitoring and supervision of the site.

The development shall be carried out in accordance with the approved details. Following each site inspection during the construction period the Project Arboricultural Consultant shall submit a short report to the local planning authority.

The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the local planning authority.

Reason

To ensure the protection and retention of existing trees which are the subject of Tree Preservation Orders.

- 5 The Local Planning Authority shall be notified in writing at least 5 working days prior to the commencement of development on site.
The existing access to the west shall be restricted solely for access by vehicles in connection with gate lodge and articulated lorries.

Reason

To maintain separate residential access to the gate house and to provide a direct access for delivery vehicles.

- 6 The access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4metres by 90metres in both directions as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of obstruction 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.

- 7 The proposed access shall be constructed at right angles to the highway boundary and to the existing carriageway as shown on Drawing No. IT1254/DD/02

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.

INFORMATION TO APPLICANT

- 1 For the duration of the construction period all traffic associated with the construction of the development permitted will use wheel cleaning facilities to prevent mud and material being deposited on the highway.

Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

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: SMO3 - Essex Highways, Childerditch Highways Depot, Hall Drive, Brentwood. CM13 3HD

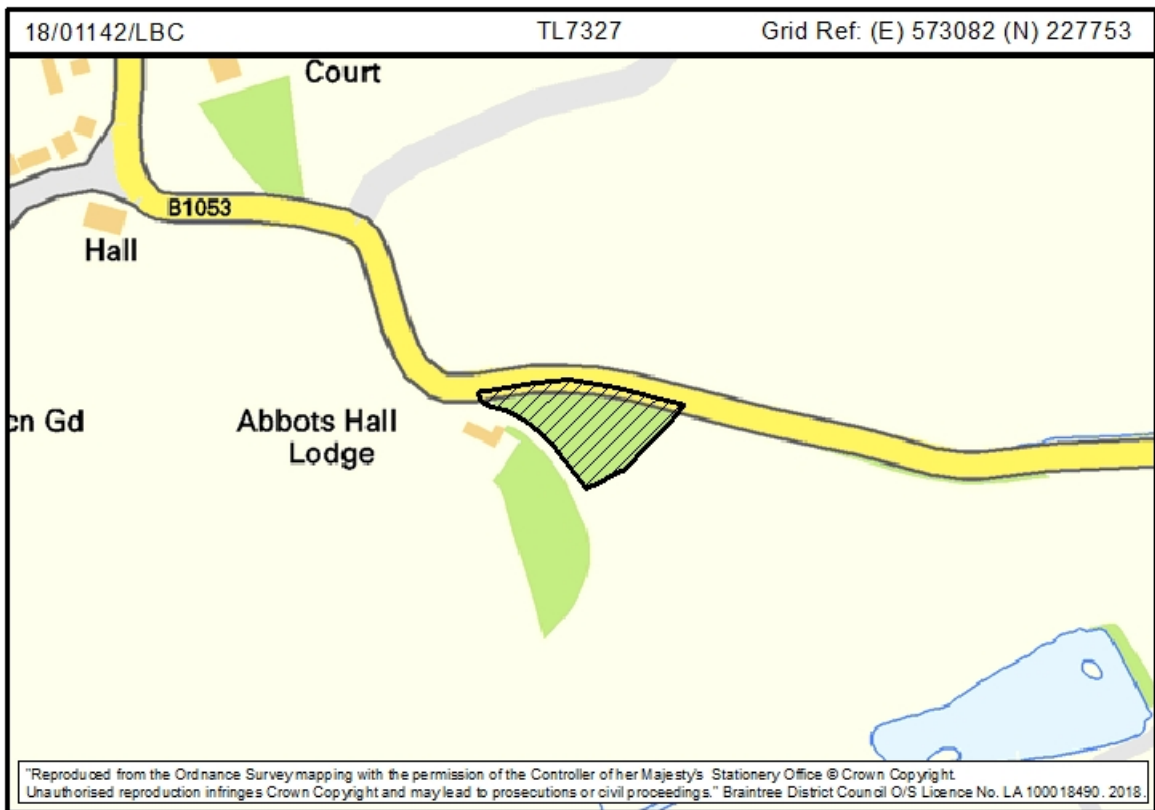
CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

AGENDA ITEM NUMBER 5i

PART B

APPLICATION NO: 18/01142/LBC
DATE VALID: 12.06.18
APPLICANT: Mr Mark Faulkner
Abbots Hall, Braintree Road, Shalford, Essex, CM7 5HG
AGENT: Andrew Martin Planning
Town Mill, Mill Lane, Stebbing, Dunmow, Essex, CM6 3SN
DESCRIPTION: Proposed new northern access to Abbots Hall and grounds.
LOCATION: Abbots Hall, Braintree Road, Shalford, Essex, CM7 5HG

For more information about this Application please contact:
Juliet Kirkaldy on:- 01376 551414 Ext. 2558
or by e-mail to: juliet.kirkaldy@braintree.gov.uk



SITE HISTORY

01/02139/FUL	Proposed alterations to stables and the ancillary buildings to create a dwelling tied to Abbotts Hall.	Granted with S106 Agreement	23.01.03
01/02140/LBC	Proposed alterations to stables and the ancillary buildings for new house	Granted with S106 Agreement	23.01.03
02/00195/FUL	Provision of new barn and car lodge at courtyard and repair main entrance gates and walls	Granted	03.07.02
02/00196/LBC	Provision of new barn and car lodge at courtyard and repair main entrance gates and walls	Granted	03.07.02
02/01690/FUL	Erection of garden room	Withdrawn	05.09.02
02/01691/LBC	Erection of new garden room, new doorway to existing kitchen, replacement of glass to veranda roof	Withdrawn	05.09.02
02/01897/FUL	Erection of new garden room	Granted	04.12.02
02/01898/LBC	Erection of new garden room, doorway to existing kitchen and replacement of glass to verandah roof	Granted	04.12.02
03/01978/LBC	Internal alterations	Granted	05.12.03
03/02360/FUL	Re-routing of access road to show a formal approach to the house	Granted	08.03.04
03/02361/LBC	Re-routing of access road to show a formal approach to the house	Granted	08.03.04
04/00904/FUL	Erection of new barn and manege	Granted	05.07.04
04/01737/LBC	Proposed improvements/minor alterations to north west elevation	Granted	27.09.04
05/00007/LBC	Proposed new kitchen in billiards room	Granted	15.02.05
08/00315/FUL	Erection of new garden room	Granted	10.04.08
08/00316/LBC	Erection of new garden room and doorway to existing kitchen	Granted	10.04.08
08/01053/LBC	Proposed works to front	Granted	22.08.08

	elevation - remove modern bay window; proposed new balcony at first floor level; replace two existing sash windows with casement doors; replace masonry paint on stone porch with pozilime. Proposed works to rear elevation - replace existing Georgian wired glass to verandah roof with clear toughened		
08/02267/FUL	Erection of open-sided three bay garage with log store to side	Granted	05.02.09
09/00095/DAC	Application for approval of details reserved by conditions of approvals 04/01737/LBC and 08/01053/LBC	Granted	25.06.09
10/00015/TPO	Notice of intent to carry out work to tree protected by Tree Preservation Order 3/53 - Fell Oak tree	Granted	19.03.10
11/00353/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order 29/10 - Carry out crown reduction approx by 2-3m and cut back side branches approx 3m to reduce weight of 1 Walnut tree	Pending Decision	
13/00219/FUL	Change of use from residential to Wedding Venue, minor internal alterations to hall, new bay window and covered walkway to west elevation, erection of garden room and function room within walled garden and alteration to position of access.	Withdrawn	21.08.13
13/00220/LBC	Change of use from residential to Wedding Venue, minor internal alterations to hall, new bay window and covered walkway to west elevation, erection of garden room and function room within walled	Withdrawn	21.08.13

14/01406/FUL	garden and alteration to position of access. To create a new potting shed - extend roof over existing structure, fill in rear wall and add a door	Granted	16.12.14
14/01407/LBC	To create a new potting shed - extend roof over existing structure, fill in rear wall and add a door	Granted	16.12.14
14/01408/FUL	Install new second floor window in side elevation	Granted	16.12.14
14/01409/LBC	Install a new window in second floor of side west elevation. Removal of bricked up section of window opening on second floor and install a new sash casement window to exact design and materials as existing windows	Granted	16.12.14
14/01410/FUL	Replacement of first floor bay window and single storey side infill extension and associated alterations	Granted	16.12.14
14/01411/LBC	Replacement of first floor bay window and single storey side infill extension and associated alterations	Granted	16.12.14
14/01412/LBC	Replacement of rear veranda glass roof with a new lead roof	Granted	16.12.14
14/00365/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order 29/10 - Carry out works to trees as detailed in the Tree Schedule	Granted	06.01.15
14/01520/FUL	Erection of glass house with double lobby and hipped ends	Granted	13.01.15
14/01521/LBC	Erection of glass house with double lobby and hipped ends	Granted	13.01.15
14/01583/FUL	Proposed internal alterations to entrance hall	Permission not Required	13.02.15
14/01584/LBC	Proposed internal alterations to entrance hall	Granted	13.02.15
15/00044/DAC	Application for approval of	Granted	12.03.15

15/00064/DAC	<p>details reserved by condition nos. 3 and 4 of approved application 14/01584/LBC</p> <p>Application for approval of details reserved by condition nos. 3 and 4 of approved application 14/01521/LBC</p>	Granted	12.03.15
15/00299/FUL	Remodelling of walled garden and construction of new swimming/lap pool; alterations to existing outbuilding to form a garden kitchen; retrospective permission for building of wood shed between existing outbuildings and conversion of cart lodge into music room.	Granted	29.04.15
15/00300/LBC	Remodelling of walled garden and construction of new swimming/lap pool; alterations to existing outbuilding to form a garden kitchen; retrospective permission for building of wood shed between existing outbuildings and conversion of cart lodge into music room.	Granted	29.04.15
15/00072/DAC	Application for approval of details reserved by condition no. 3 of approved application 14/01409/LBC	Granted	20.04.15
15/00073/DAC	Application for approval of details reserved by condition no. 3 of approved application 14/01411/LBC	Granted	19.03.15
15/00074/DAC	Application for approval of details reserved by condition no. 3 of approved application 14/01407/LBC	Granted	19.03.15
15/00075/DAC	Application for approval of details reserved by condition no. 3 of approved application 14/01409/LBC	Granted	19.03.15
15/00105/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order	Granted	08.06.15

15/00118/DAC	29/10 - Fell 2 Chestnut trees and 2 Ash trees Application for approval of details reserved by condition no. 3 of approved application 15/00299/FUL	Granted	10.07.15
15/00122/DAC	Application for approval of details reserved by condition no. 3 of approved application 15/00300/LBC	Granted	02.09.15
15/00736/FUL	Replacement of existing veranda.	Granted	27.07.15
15/00737/LBC	Replacement of existing veranda.	Granted	27.07.15
15/00303/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order 29/10 - Remove 1 dead Ash tree and replace with 4 Native Species trees and Remove 1 mature Lime tree and replace with several new trees	Granted	18.11.15
15/00390/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order 29/10 - Remove 1 mature Ash tree and replace, Remove Lime pollard and Remove 1 Sycamore	Part Grant, Part Refused	01.02.16
18/00135/FUL	Retrospective application for the retention of a galvanised steel water storage tank within the curtilage of Abbots Hall to provide an irrigation source for the estate gardens and as an emergency water store in the event of a fire	Granted	22.03.18
18/00136/FUL	Retrospective application for the retention of two glasshouses, one sited to the south of the existing manege, and one to the south of the Coach House	Granted	19.03.18
18/00619/FUL	Retrospective application for remodelling of the landscaped grounds and for the creation of a new lake and the extension of an	Granted	26.07.18

18/00620/LBC	existing lake within the curtilage of Abbots Hall and drive realignment to the north west of the hall along with a new forecourt to the immediate north west of Abbots Hall and emplacement of ground source heating pipes and two associated ground source heat pumps in the western area of the site. Retrospective application for remodelling of the landscaped grounds and for the creation of a new lake and the extension of an existing lake within the curtilage of Abbots Hall and drive realignment to the north west of the hall along with a new forecourt to the immediate north west of Abbots Hall and emplacement of ground source heating pipes and two associated ground source heat pumps in the western area of the site.	Granted	26.07.18
18/00637/HHPA	Erection of single storey rear conservatory. Extension will extend beyond rear wall of the original house by 5m, with a maximum height of 3.450m and 2.350m to the eaves of the extension	Permission not Required	15.05.18
18/01141/FUL	Proposed new northern access to Abbots Hall and grounds.	Pending Decision	
18/00267/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order 29/10 - Tree 1 - Horse Chestnut - This needs to be reduced to 25 feet (trunk) as canopy is dangerous due to age and fungal rot. (Tree officer has visited site and seen this tree) Tree 2 - Ash	Granted	30.10.18

- This needs to be felled as dangerous, due to fungal rot. (Tree officer has visited site and seen this tree) Tree 3 - Field Maple - This needs to be felled as completely rotted and also beside road, therefore dangerous

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 Publication 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 joint North Essex-Authorities (NEAs) have received a post hearing letter dated 8th June 2018. This letter outlined a number of shortcomings about the Garden Communities in the Section 1 Plan relating to transport infrastructure, employment, viability, and the sustainability appraisal.

The letter has outlined 3 options for how to proceed with the Section 1 Publication Draft Local Plan.

- Option 1 – Remove the Garden Communities proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time.
- Option 2 – The NEAs carry out further work on evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2 examinations. This option would result in the suspension of the examination, and the part 2 examination could not take place.
- Option 3 – Withdraw Section 1 and Section 2 of the Plans from examination and to resubmit them with any necessary revisions, after carrying out required further work on the evidence base and Sustainability Appraisal, and the relevant consultation and other procedures required by legislation.

A further Supplementary Post-hearing letter dated 27th June has also been received. This letter provided the Inspectors views on policy SP3 of the Section 1 Plan which covers housing requirements. The letter concludes that the housing requirement figures for each of the NEAs set out in policy SP3 is its respective objectively-assessed housing needs, which for Braintree is 716 dwellings per annum.

The North Essex Authorities have agreed to produce further evidence to present to the Planning Inspector on the section 1 Local Plan. The authorities will need to agree with the Planning Inspector a timetable for the completion of this work, but this will result in a delay to the adoption of the Local Plan.

In accordance with paragraph 48 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 48 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

RPL100 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

LPP50 Built and Historic Environment

LPP60 Heritage Assets and their Settings

Other Material Considerations

Site Allocations and Development Management Plan
Essex Design Guide

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

Essex Parking Standards/Urban Space Supplement

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to the Planning Committee as the Parish Council have objected to the application contrary to the officer recommendation.

SITE DESCRIPTION

- Abbots Hall is Grade II listed
- The site is situated outside of the defined development boundary
- Abbots Hall is set back from the road frontage.
- The existing access is situated on a sharp bend on the Braintree Road to the north west of Abbots Hall.
- There is a residential property at the entrance to the existing access.

PROPOSAL

The proposal is for the provision of a new northern vehicular access from the B1053 Braintree Road to improve driver visibility and overall safety when entering and exiting the site. The provision of the new access will require the felling of 11 trees plus minor surgery to 3 trees to permit construction space and access.

CONSULTATIONS

Historic Buildings Consultant

No objection

REPRESENTATIONS

Parish Council

The following representation was received:

The Parish Council were concerned that there is a TPO on Abbots Hall Estate 29/2010/TPO and to change the entrance to the hall would entail taking out several trees. If the new trees are not covered by a TPO could we please put a TPO on these.

The Parish Council are concerned that the new entrance is no safer than the original entrance on to the B1053. The Parish Council would prefer that the original entrance continues to be used.

Neighbour Representations

A site notice was displayed for a 21 day period and immediate neighbours were notified by letter. No representations were received.

REPORT

Principle of Development

The application site is situated outside of the defined development boundary and therefore countryside policies apply.

Policy RLP 100 'Alterations and Extensions and Changes of Use to Listed Buildings and their settings' of the Braintree District Local Plan Review 2005 refers to preserving and enhancing the settings of listed buildings by appropriate control over the development, design and use of adjoining land. This is reiterated in Policy LPP60 of the Draft Local Plan.

Policy CS9 'Built and Historic Environment' of the adopted Core Strategy 2009 refers to securing the highest possible standards of design and layout in all development and the protection and enhancement of the historic environment.

The principle of development is considered acceptable subject to compliance with the criterion of the above policies.

Layout, Design, Appearance

The site measures approximately 0.34 ha in size and is triangular in shape comprising a small woodland area. It is stated in the submitted Design and Access Statement that, 'the works comprise the provision of a new northern access to replace the existing access which is currently located on a sharp bend. The design of the new access will improve driver visibility and overall safety when entering and exiting the site'.

The proposed access is to be situated to the north west of Abbots Hall, on the south side of the B1053, Braintree Road. This is approximately 40 metres to the east of the existing access. The existing access is situated adjacent to a residential dwelling (Gate Lodge) to Abbots Hall and is currently the main access to Abbots Hall. The intention of the scheme is for the proposed access to be the main vehicular entrance to Abbots Hall for the owners, staff, guests, visitors and deliveries. The existing access will be retained but restricted to access by vehicles relating to Gate Lodge and articulated lorries. Retention of the existing access is of importance as this represents a historic route forming the original main drive to Abbots Hall.

The proposed access measures approximately 4 metres in width and is approximately 30 metres in length where it then connects with the existing access driveway to Abbots Hall. Surfacing of the proposed access will match that of the existing driveway. The location of the new access has been carefully selected and designed so as to have minimal impact on the existing tree cover at the entrance to Abbots Hall and to maintain the overall setting of the estate.

Heritage Statement

A Heritage Statement has been submitted with the application. It summarises that, '*This will result in a minor alteration to the historical north west access route. It is understood that this is to allow for improved visibility when joining the public highway. It will result in a minor change to the setting of Abbot's Hall and the Stable Block, but will preserve the majority of this historical access route and so is considered to have no impact on the overall significance of Abbot's Hall and the Stable Block*'. In light of the consultation response received from the Historic Buildings Consultant the proposal is not considered to have a detrimental impact on Abbots Hall and complies with the criterion of Policy RLP100 of the Adopted Local Plan 2005, Policy RLP60 of the Draft Local Plan and Policy CS8 of the Adopted Core Strategy.

CONCLUSION

The proposal will not have a detrimental impact on the setting of Abbots Hall. The majority of the historical access route will be retained and therefore is considered to have no impact on the overall significance of Abbot's Hall and the Stable Block. The proposal accords with RLP100 of the Adopted Local

Plan and Policy CS8 and Policy CS9 of the Adopted Core Strategy and RLP60 of the Draft Local Plan.

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

Tree Plan	Plan Ref: 6689/D/AIA
Block Plan	Plan Ref: 14024/51
Location Plan	Plan Ref: 14024/52
Access Details	Plan Ref: IT1254/DD/02

- 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

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

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER