

# Planning Committee AGENDA



THE PUBLIC MAY ATTEND THIS MEETING

Please note this meeting will be webcast and audio recorded.

**Date: Tuesday, 17 March 2015**

**Time: 19:15**

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

## **Membership:**

Councillor J E Abbott  
Councillor P R Barlow  
Councillor E Bishop  
Councillor R J Bolton  
Councillor L B Bowers-Flint  
Councillor C A Cadman  
Councillor T J W Foster  
Councillor P Horner

Councillor S C Kirby  
Councillor D Mann  
Councillor Lady Newton  
Councillor J O'Reilly-Cicconi  
Councillor R Ramage  
Councillor W D Scattergood  
(Chairman)  
Councillor G A Spray

**Members are requested to attend this meeting, to transact the following business:-**

## **PUBLIC SESSION**

### **1 Apologies for Absence**

### **2 Declarations of Interest**

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

### **3 Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 3rd March 2015 (copy previously circulated).

**4 Public Question Time**

(See paragraph below)

**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.

**PART A**

Planning Applications:-

There are no applications in Part A.

**PART B**

Minor Planning Applications:-

- |           |   |                |
|-----------|---|----------------|
| <b>5a</b> | <b>Application No. 14 01615 FUL - 48 Watermill Road, FEERING</b>  | <b>5 - 9</b>   |
| <b>5b</b> | <b>Application No. 14 01239 LBC - 15 Silver Street, SILVER END</b>  | <b>10 - 13</b> |
| <b>5c</b> | <b>Application No. 14 01389 FUL - 12 Valentine Way, SILVER END</b>  | <b>14 - 17</b> |
| <b>5d</b> | <b>Application No. 14 01635 FUL - The Surgery, Silver Street, WETHERSFIELD</b>  | <b>18 - 23</b> |
| <b>5e</b> | <b>Application No. 14 01514 FUL - 57 Powers Hall End, WITHAM</b>  | <b>24 - 28</b> |
| <b>6</b>  | <b>Scheme of Delegation</b>   | <b>29 - 69</b> |
| <b>7</b>  | <b>National Planning Policy Guidance - Planning Obligations Update</b>  | <b>70 - 76</b> |
| <b>8</b>  | <b>Planning and Enforcement Appeal Decisions - February 2015</b>  | <b>77 - 84</b> |
| <b>9</b>  | <b>Urgent Business - Public Session</b><br>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. |                |
| <b>10</b> | <b>Exclusion of the Public and Press</b><br>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**

**11 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.

Continued

E WISBEY  
Governance and Member Manager

**Contact Details**

If you require any further information please contact the Governance and Members Team on 01376 552525 or email [demse@braintree.gov.uk](mailto:demse@braintree.gov.uk)

**Public Question Time**

Immediately after the Minutes of the previous meeting have been approved there will be a period of up to 30 minutes when members of the public can speak.

Members of the public wishing to speak should contact the Governance and Members Team on 01376 552525 or email [demse@braintree.gov.uk](mailto:demse@braintree.gov.uk) at least 2 working days prior to the meeting.

Members of the public can remain to observe the whole of the public part of the meeting.

**Health and Safety**

Any persons attending meetings at Causeway House are requested to take a few moments to familiarise themselves with the nearest available fire exit, indicated by the fire evacuation signs. In the event of a continuous alarm sounding during the meeting, you must evacuate the building immediately and follow all instructions provided by a Council officer who will identify him/herself should the alarm sound. You will be assisted to the nearest designated assembly point until it is safe to return to the building.

**Mobile Phones**

Please ensure that your mobile phone is either switched to silent or switched off during the meeting.

**Comments**

Braintree District Council welcomes comments from members of the public in order to make its services as efficient and effective as possible. We would appreciate any suggestions regarding the usefulness of the paperwork for this meeting, or the conduct of the meeting you have attended.

Please let us have your comments setting out the following information

Meeting Attended..... Date of Meeting .....

Comment .....

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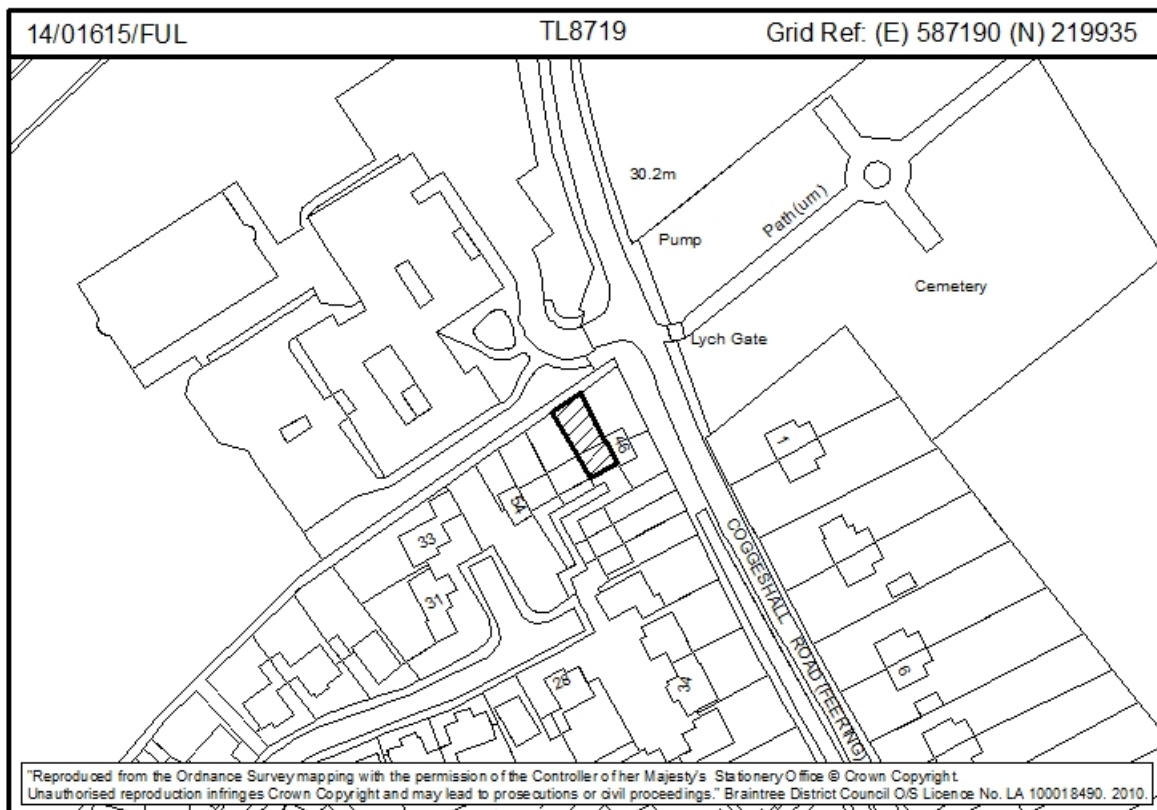
Contact Details: .....

AGENDA ITEM NUMBER 5a

PART B

APPLICATION NO: 14/01615/FUL DATE: 18.12.14  
VALID:  
APPLICANT: Ms Frances Mayers  
48 Watmill Road, Feering, Essex, CO5 9SR  
AGENT: Cole Architecture  
Mr Steve Cole, 65 Moulsham Drive, Chelmsford, Essex,  
CM2 9PY  
DESCRIPTION: Erection of two storey rear extension  
LOCATION: 48 Watmill Road, Feering, Essex, CO5 9SR

For more information about this Application please contact:  
Mr Damien McGrath on:- 01376 551414 Ext.  
or by e-mail to:



## SITE HISTORY

None Received

## POLICY CONSIDERATIONS

### National Planning Guidance

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

### Braintree District Local Development Framework Core Strategy

CS9            Built and Historic Environment

### Braintree District Local Plan Review

RLP3            Development within Town Development Boundaries and Village  
                         Envelopes  
RLP17           Extensions and Alterations to Dwellings in Towns and Villages  
RLP90           Layout and Design of Development

### Other Material Considerations

Essex Design Guide 2005

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought before the Committee as the Council recommends approval whereas the Parish Council objects to the proposal as presented here.

## SITE DESCRIPTION

48 Watermill Road is a two storey, red brick, terraced dwelling situated within the Feering Village Envelope as outlined in the Braintree District Local Plan Review. The terrace is comprised of five dwellings; 46, 48, 50, 52, 54.

The site is accessible on foot from the adjacent parking area some 30m from the entrance to the subject dwelling. The subject property in common with its near neighbours features a rear garden bounded to the east and west by its neighbours and by a mature hedgerow to the north beyond which lies a Public Right of Way itself adjacent to Feering Primary School.

## PROPOSAL

The proposal is for a part two-storey part single storey extension, with the two storey element stepped away from the boundary of no. 50.

## CONSULTATIONS

Parish Council – Objects to the proposal for the following reasons:

- the siting, bulk, form of the extension is not considered to be compatible with the original dwelling;
- the scale, design and intensity of any new building is not considered to be in harmony with the surrounding development, does not respect neighbouring amenities and that the extension is inappropriate development of residential garden.

## REPRESENTATIONS

One letter of objection has been received from a near neighbour at 52 Watermill Road. The objection points are detailed as follows:

- size and scale of the proposed ground floor extension, which will stand approximately 1 metre above the fence line, and will protrude 3.5 metres into the garden will affect the feel of open countryside space, therefore reducing the enjoyment of garden and outside space;
- the first floor will partially block view of the open countryside;
- loss of personal privacy at first floor windows from the Velux roof lights in the ground floor extension;
- the design will ruin the aesthetics and character of the small row of terrace houses;
- the extent of the extension will increase noise nuisance effectively creating three immediate neighbours.

## REPORT

### Principle of Development

The site lies within the defined development boundaries of Feering as set out in the adopted Braintree District Local Plan Review, wherein the principle of residential development is acceptable. In this location, as set out in Policies RLP3, RLP17 and RLP90 of the Braintree District Local Plan Review, and CS9 of the Core Strategy, development shall only be permitted where it satisfies amenity, design, and highway criteria and where it can take place without detriment to the existing character of the area, provided that there is no over-development of the plot.

### Design, Appearance and Layout

The proposal is for a staggered rear extension with the ground floor element projecting beyond the original rear wall by 3.6m whereas the first floor element projects 2.3m from the original wall. The height of the ground floor element would be 3.6m and the first floor element just below the existing ridge height. Furthermore the materials match existing and when seen from the principle (front) elevation the proposal would not be noticeable.

It is contended by the objector that the design will “ruin” the appearance of the terrace. Further, the Parish Council share this concern citing RLP17. Officers note the concern however it is evident that the proposal would not be visible from the roadside or from any approach to the subject site. It is also subordinate to the existing dwelling. It is acknowledged that the proposal would alter the appearance of the rear elevation significantly. This fact must be balanced with the harm to the appearance of the terrace, the streetscene and the surrounding area. Officers take the view that while there would be some harm to the appearance of the terrace its essential character and uniform design would remain intact and that this harm would not be visible from approaches to the dwelling. Consequently it is not considered that the effect on the appearance of the terrace is reason to refuse.

#### Impact on Neighbouring Amenity

Officers also note the objection from the Parish Council regarding the amenity of neighbours and the inappropriate scale of the proposal in a residential garden.

Having considered the effect on amenity officers paid particular attention to the impact on the properties sharing a party wall with the subject site. It is noted that the two storey element is sufficiently setback so as to adhere to the 45° degree rule (Essex Design Guidelines) ensuring that no unacceptable loss of daylight would occur to neighbouring habitable windows. Additionally, the north facing orientation of these gardens means that overshadowing onto neighbouring dwellings would not occur.

The objector notes that the “feel of open countryside space” will be compromised thereby reducing the objector’s enjoyment of their residence. Officers note that the objector enjoys some views to the east of Coggeshall Road across the back garden of the terrace however it is not considered that the preservation of distant views within a village setting is reason to deny neighbouring, unadjoined properties the right to extend at first floor level. It is noted that the applicant has staggered the extension at first floor to minimise its impact and that it would not be reasonable to refuse permission on this basis.

The objector also highlights concerns re loss of privacy arising from the inclusion of rooflights to the single storey element. Officers acknowledge this concern and have requested amended plans removing the rooflights on the relevant west facing elevation. These have been received therefore this concern is not considered further.

Officers also considered what could be achieved under Permitted Development Rights as outlined in the General Permitted Development Order. This allows for a two-storey extension to extend 3m beyond the original rear wall without the need to apply for planning permission albeit without the single storey element. Such an addition would have a significantly greater impact on neighbouring amenity than that proposed.



Furthermore, while it is acknowledged that the proposal would result in reduced garden area officers note that approx. 30m<sup>2</sup> would remain to the occupants. It is acknowledged this is less than recommended in the Essex Design Guide, however, in this instance officers consider the harm caused by the loss of garden space to be offset by the increased residential floorspace.

## CONCLUSION

Officers note the objections of the Parish Council and the near neighbour and have addressed them in this report. While the proposal is large in the rear garden its staggered single/two-storey form means that the impact on neighbouring amenity would be within acceptable parameters.

Regarding the scale of the proposal and its relationship with the plot, again officers consider this acceptable as it is subordinate to the existing dwelling and over 30m<sup>2</sup> of rear garden would remain.

Finally, while the design of the rear additions do little to enhance the appearance of the elevation, the proposal's lack of visibility in the streetscene mean that the essential character of the terrace and the dwelling itself would remain intact.

## RECOMMENDATIONS

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: WR/14/01	
Floor Plan	Plan Ref: WR/14/02	Version: B
Floor Plan	Plan Ref: WR/14/03	Version: B
Roof Plan	Plan Ref: WR/14/04	Version: B
Elevations	Plan Ref: WR/14/05	

- 1 The development hereby permitted shall be begun on or before the expiration of three years beginning with the date of this permission.

### 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.

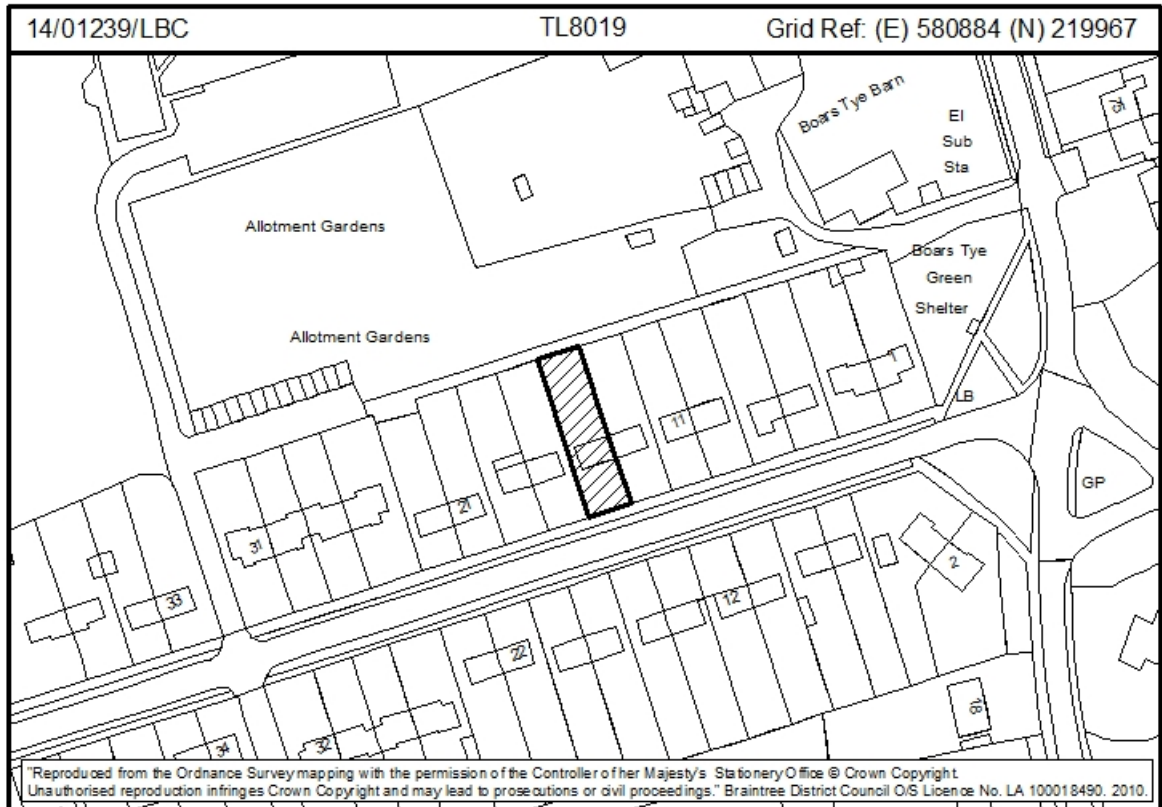
TESSA LAMBERT - DEVELOPMENT MANAGER

AGENDA ITEM NUMBER 5b

PART B

APPLICATION 14/01239/LBC      DATE 22.09.14  
NO:      VALID:  
APPLICANT: Mr Ralph Alexander  
15 Silver Street, Silver End, Essex, CM8 3QQ  
DESCRIPTION: Replacement windows in rear elevation only  
LOCATION: 15 Silver Street, Silver End, Essex, CM8 3QQ

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



## SITE HISTORY

10/00146/TPOCON	Notice of intent to carry out work to a tree in a Conservation Area - Cut down 1 Silver Birch tree	Withdrawn	30.06.10
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## POLICY CONSIDERATIONS

### National Planning Guidance

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

### Braintree District Local Development Framework Core Strategy

CS9            Built and Historic Environment

### Braintree District Local Plan Review

RLP3	Development within Town Development Boundaries and Village Envelopes
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings

### National Planning Guidance

National Planning Policy Framework (NPPF)

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought before the Planning Committee due to an objection received from the Parish Council.

## SITE DESCRIPTION

15 Silver Street is a Grade II Listed Building within the Silver End Conservation Area and Village Envelope. The building is one of a pair of semi-detached dwellings finished in painted brick. The original windows, which would have had horizontal glazing bars, were replaced with Crittall asymmetric casements prior to its listing. There is a more recent single-storey extension at the rear of the building.

## PROPOSAL

This proposal is to replace the upper rear windows and the windows in the extension with aluminium replicas of the existing casements.

## CONSULTATIONS

The Historic Buildings Consultant has no objection in principle to the proposal as whilst the building is Grade II listed, the existing windows are not original to it. He is concerned, however, that the proposed windows should match the frame proportions of the existing Crittall windows.

## REPRESENTATIONS

The Parish Council has objected to the proposal on the grounds that insufficient information has been submitted and that it is not suitable due to the listed status of the building.

## REPORT

The proposal affects an existing dwelling sited within the Village Envelope and Conservation Area of Silver End. Development is therefore acceptable in principle in accordance with Policy RLP2 of the Braintree District Local Plan Review. Core Strategy Policy CS9 promotes the highest possible standards of design and layout in all new development and the protection and enhancement of historic environment in order to, amongst other things, respect and respond to the local context, especially in the Districts historic or important buildings and conservation areas. The building is also listed therefore Policy RLP100 is relevant. This states that the Council will only allow for works or development to be carried out to a listed building if it will not harm the setting, character, structural stability and fabric of the building and does not result in the loss of, or significant damage to, the building's historic and architectural elements and include the use of appropriate materials and finishes. The National Planning Policy Framework Practice Guidance indicates that whether or not a proposal will cause harm to a historic asset will be a judgment for the decision taker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. Whilst works that are moderate or minor in scale have the potential to cause harm, it is likely to be less than substantial harm or result in no harm at all.

This proposal affects the rear elevation of the building only. The Silver End Conservation Guide published in 1998 indicates that only single-glazed steel windows are acceptable in the Conservation Area for both the listed and unlisted houses. Advice from the Council's Legal Team indicates that the Council cannot dictate to private householders where to purchase replacement windows from. The only product available from Crittall at the present time is the 'Crittall Homelight' range, which is double glazed and polyester powder coated. It is also very expensive when compared to aluminium windows and is clearly prohibitive for most residents in Silver End.

It is relevant to note that in recent years there have been significant improvements in the production of aluminium windows in terms of their appearance and finish and several applications have been granted in the unlisted houses. Therefore, it is concluded that it would not be reasonable to insist that the windows can only be replaced with steel Crittall windows.

As stated above, Historic Buildings Consultant does not object to the proposal provided that the glazing pattern of the replacements will match the profile of the existing windows, therefore it is considered that the proposal will not result in harm to the listed building. The applicant has specified that Crown Casement Windows are proposed with the glazing bars and opening lights in the same configuration as the existing windows, incorporating a 52mm frame, which is comparable to the Homelight range.

### CONCLUSION

It is concluded that the proposal is reasonable in all respects and corresponds with the Policies contained within the Local Plan Review, the Core Strategy and the National Planning Policy Framework, subject to the conditions set out below.

### 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  
Photograph  
Window details

- 1 The works hereby permitted shall be begun on or before the expiration of three years beginning with the date of this consent.

#### Reason

This Condition is imposed pursuant to Section 18 of the Planning (Listed Building & Conservation Areas) Act 1990.

- 2 The windows shall be installed in accordance with the submitted details, using 'Crown Casement Windows', with profile reference CWC048, mullion/transom reference CW316 and Cill reference CWC048.

#### Reason

To ensure the proposed works do not prejudice the architectural or historic merits of the listed building.

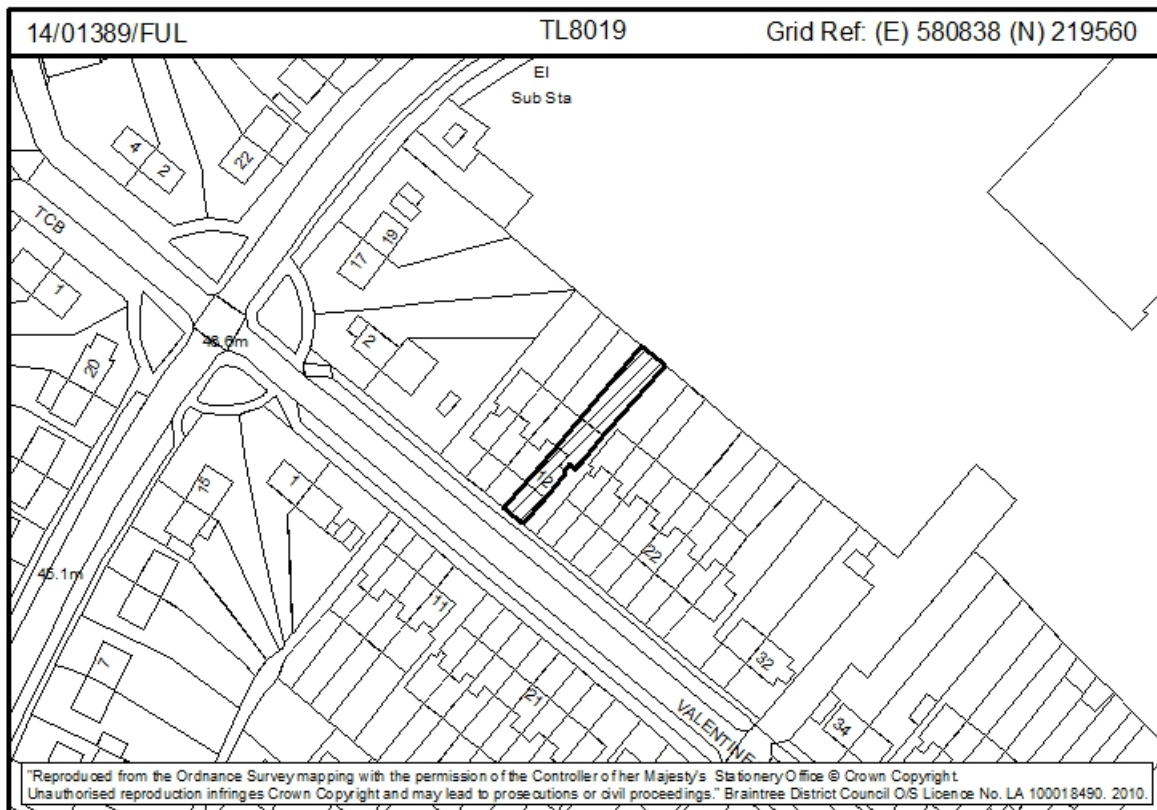
TESSA LAMBERT - DEVELOPMENT MANAGER

AGENDA ITEM NUMBER 5c

PART B

APPLICATION 14/01389/FUL DATE 27.10.14  
NO: VALID:  
APPLICANT: Mr Marc And Mrs Anne Halls  
12 Valentine Way, Silver End, Essex, CM8 3RY  
DESCRIPTION: Replacement of two front windows.  
LOCATION: 12 Valentine Way, Silver End, Essex, CM8 3RY

For more information about this Application please contact:  
Mr Damien McGrath on:- 01376 551414 Ext.  
or by e-mail to:



## SITE HISTORY

None Received

## POLICY CONSIDERATIONS

### National Planning Guidance

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

### Braintree District Local Development Framework Core Strategy

CS9            Built and Historic Environment

### Braintree District Local Plan Review

RLP3	Development within Town Development Boundaries and Village Envelopes
RLP17	Extensions and Alterations to Dwellings in Towns and Villages
RLP90	Layout and Design of Development
RLP95	Preservation and Enhancement of Conservation Areas

### Other Guidance

The Silver End Conservation Guide

## CONSULTATIONS

Historic Buildings Advisor – No objections subject to the use of appropriate window type which has been agreed with the applicant over the course of the application. A condition has been attached to the decision notice to reflect this.

Parish Council – Objects on the grounds of the use of inappropriate window material.

## PUBLICITY

A site notice was posted at the site and letters were sent to neighbouring residents. No letters of objection or observation otherwise have been received.

### 1.     Principle of Development

The property lies within the Silver End Conservation Area, which is subject to an 'Article 4' direction which removes certain permitted development rights. This means that the replacement of windows, which is normally permitted development, requires consent in this instance.

The Silver End Conservation gives details of appropriate window designs within this area.

Policies RLP17 and RLP90 require development to recognise and reflect local distinctiveness, not result in over development of the plot and not cause material impact on the identity of the street scene, scale and character of the area. These policies also require that there should be no unacceptable adverse impact on neighbouring properties' amenities including on privacy, overshadowing and loss of light. RLP95 requires that development preserve or enhance the character of conservation areas and their settings.

## 2. Design and Appearance

It is proposed to replace existing steel windows with aluminium ones, which is established practice. However, replacements must provide the best usual match possible in order to ensure the character of the building is maintained.

The applicant originally proposed the use of 'Sapa Dualframe' windows which after assessment by the historic building officer and the planning case officer were considered to be unacceptable. Once made aware of the objection the applicant agreed to use the more appropriate 'Crown Casement' type. An appropriate condition, agreed with the applicant, has been attached to the decision notice reflecting this requirement.

## 3. Other Matters

None

## 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  
Window details  
Window details  
Window details  
Photograph  
Photograph  
Photograph  
Window details

- 1 The development hereby permitted shall be begun on or before the expiration of three years beginning with the date of this permission.



Reason

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

- 2 The windows shall be the 'Sapa Crown Casement' range as depicted in the submitted plans to match exactly the frame pattern and proportions of the existing Crittall frames.

Reason

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

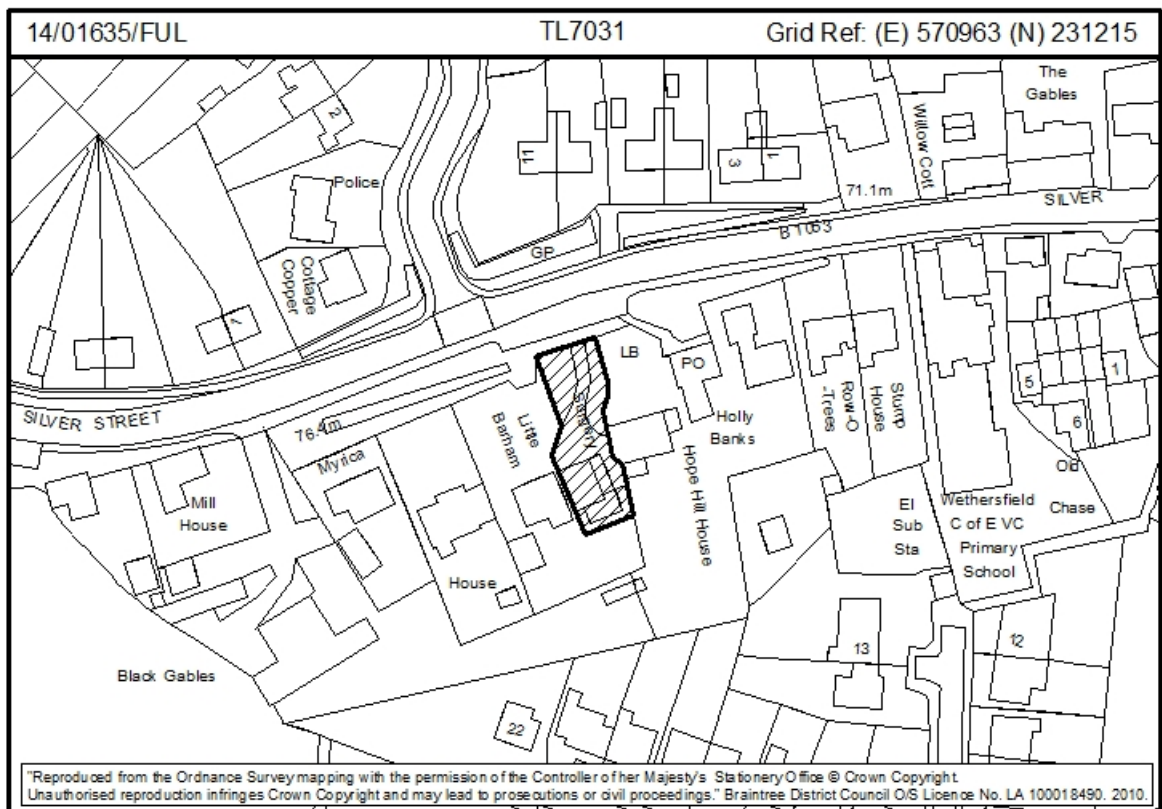
TESSA LAMBERT  
DEVELOPMENT MANAGER

# AGENDA ITEM NUMBER 5d

## PART B

APPLICATION NO: 14/01635/FUL DATE: 23.12.14  
 VALID:  
 APPLICANT: Mr D Lawrence  
 Little Legs Junior, Silver Street, Wethersfield, Braintree,  
 Essex, CM7 7BP  
 AGENT: Mr David Pocknell  
 Pocknell Studio, East Barn, Blackmore End, Braintree,  
 Essex, CM7 4DR  
 DESCRIPTION: Erection of single storey extension to day nursery  
 LOCATION: The Surgery, Silver Street, Wethersfield, Essex, CM7 4BP

For more information about this Application please contact:  
 Mathew Wilde on:- 01376 551414 Ext.  
 or by e-mail to:



## SITE HISTORY

14/01302/FUL	Erection of single storey extension to day nursery	Refused	01.12.14
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## POLICY CONSIDERATIONS

### National Planning Guidance

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

### Braintree District Local Development Framework Core Strategy

CS9            Built and Historic Environment

### Braintree District Local Plan Review

RLP3	Development within Town Development Boundaries and Village Envelopes
RLP56	Vehicle Parking
RLP90	Layout and Design of Development
RLP92	Accessibility

## INTRODUCTION

This application is brought before the Planning Committee due to an objection from Wethersfield Parish Council, contrary to the recommendation of officers.

## SITE DESCRIPTION

The site comprises a single storey building which is located on Silver Street in Wethersfield. The use of the site was formerly a doctors' surgery, however it appears to have changed under permitted development to a day time nursery. It currently employs 3 full time staff and 1 part time staff and it is understood it currently has capacity for a maximum of approximately 11 children at any one time.

The site is located on the top of an embankment, with the nursery located at the rear of the site and an outdoor play area at the front of the site.

The site has no associated parking, however does benefit from an area of highway land used for parking near the front of the site which is currently utilised (serves at a maximum of 4-5 cars).

## PROPOSAL

The proposal is to extend the nursery building, by enclosing the existing lean-to area, adding approximately 24sqm of additional floor space. This is to

provide for a maximum of 5 additional children and 1 additional full time member of staff and 1 additional part-time member of staff.

The proposal represents a much reduced scale of development from that previously proposed under ref: 14/01302/FUL in an effort to overcome the reasons for refusal which raised concerns regarding the siting and height of the building, the intensification of use and lack of parking provision.

## CONSULTATIONS

### Essex County Council Highways Officer

No objection to the proposal:

- Lack of recorded accidents, but noted parking will have to take place within the public highway.

### Wethersfield Parish Council

Object to application:

- Traffic hold up
- Increased noise for adjacent neighbours
- Lack of car parking

## REPRESENTATIONS

A site notice was displayed at the front of the property. 1 letter of objection was received detailing the following summarised concerns:

- Question if land is public or private
- Loss of business to near-by post office
- Parking taken up by nursery visitors/users
- Request work to the banked area outside post office and nursery

## REPORT

### Principle of Development

The site comprises a detached building in a predominately residential area within Wethersfield village envelope and as such the principle of development can be established subject to satisfying design, appearance, amenity and highways criteria outlined in National and Local Policies. The National Planning Policy Framework supports the expansion of local businesses in principle, but stipulates that it must be balanced against the impacts on the area in which it is located.

As the nursery forms a community/business use, consideration is also required in regard to how the site will be used once extended. In this instance, the extension will facilitate an additional 5 children, 1 full member of staff and

1 part-time member of staff. This will require careful consideration in addition to the below aspects.

### Design, Appearance and Layout

The plot in which the nursery is situated is constrained, as it is considered to be narrow with the existing nursery building encompassing over a third of the total available space. Neighbouring dwellings are subsequently in very close proximity to both Eastern and Western boundaries which emphasise the constrained nature of the site.

The nursery building is set back a significant distance from the road and due to the embankment is largely screened in the wider street scene. The extension proposes to enclose the existing lean-to open area on the East side of the nursery building which will create an additional 24 sqm of floor space. The enclosure itself is to be of a contemporary design with low level windows and painted render. The roof pitch slopes from the edge eaves of the building towards the existing flat roof of the nursery building.

This is a reduction from the previously refused planning application 14/01302/FUL which posed an additional 1.5m extension in addition to enclosing the lean-to area. It is now considered due to the bulk, scale and design of the enclosure that there will not be a detrimental impact to the wider character of the area or the building itself.

### Impact on Neighbour Amenity

RLP90, amongst other things, stipulates that planning permission will only be granted where there is no undue or unacceptable impact on the amenity of any nearby residential properties. The additional numbers of children and staff will also increase the intensity of use associated with the nursery. As the site is constrained and firmly located within a residential area, the amenity of adjoining properties is a primary consideration.

The previous application 14/01302/FUL had the following reason for refusal:

*“The siting and height of the extension, due to its proximity to Home Hill House would adversely impact upon the residential amenities of Home Hill House. Furthermore, due to the location and constrained nature of the site, the proposed would lead to a significant intensification of the use of the site, which will result in an unacceptable impact on the amenity of adjoining dwellings. Accordingly, the proposal is contrary to the abovementioned policies.”*

The West elevation of Hope Hill House forms part of the Eastern boundary for the nursery. The current application proposes a reduction in the size of the infill and subsequently a reduction in the number of additional children and staff. It is considered that this reduction, although small, would significantly decrease the impact on the amenity of adjoining neighbour Home Hill House. In conjunction with this, the less staff and children proposed would reduce the

intensification of the site in comparison to the previously refused scheme. It is therefore considered overall that the proposed infill and staff/children increases will not detrimentally increase the impact to any neighbouring properties. As such, it is considered it would now be unreasonable to refuse the application on this basis.

### Highway Issues

RLP 56 stipulates that development will be required to provide off-street vehicle parking in accordance with the Council's Adopted Parking Standards. The adopted parking standards stipulate the maximum standard of 1 space per each full time member of staff, and drop off/pick up facilities. The site has no associated parking, however does benefit from an area of highway land used for parking near the front of the site which is currently utilised (serves at a maximum of 4-5 cars). A letter of representation raised concerns over the lack of off-street parking.

The second reason for refusal on the previous application 14/01302/FUL related to the increase in staff numbers and the lack of available on-plot car parking spaces. However, the Highways Officer offered and continues to offer no objection to the proposal and notes that all associated parking will be required to take place within the public highway.

The current application is supported by a statement which illustrates the areas of on-street parking in close proximity to the nursery. While it is acknowledged that some staff may be required to park in this area, the staff/children increases associated with this application are much lower than previously submitted (see above section). Subsequently, the requirement for on-street parking will be greatly reduced from the previously refused application.

The application therefore will increase the requirement of parking for the nursery however, when, considering the existing parking situation, the availability of potential on-street parking and the Highways Officers comments, it is considered that the proposal would not cause a detrimental impact to highway safety or significantly restrict the use of the nursery. Subsequently, it would also be unreasonable to refuse the application on the basis that there is less space for parking at the local post office.

### Other Matters

The parking land in question is not private land but would appear to be public highway land. Any works to the embankments will require separate consent from the Highways Authority.

### CONCLUSION

The application is considered to address the two previous reasons for refusal relating to neighbouring amenity and parking and subsequently the application on balance should be 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

Existing Plans

Plan Ref: PSLLJ 14/EXTNG/01

Proposed Plans

Plan Ref: PSLLJ 14/PROP/01    Version: C

- 1 The development hereby permitted shall be begun on or before the expiration of three years beginning with the date of this permission.

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.

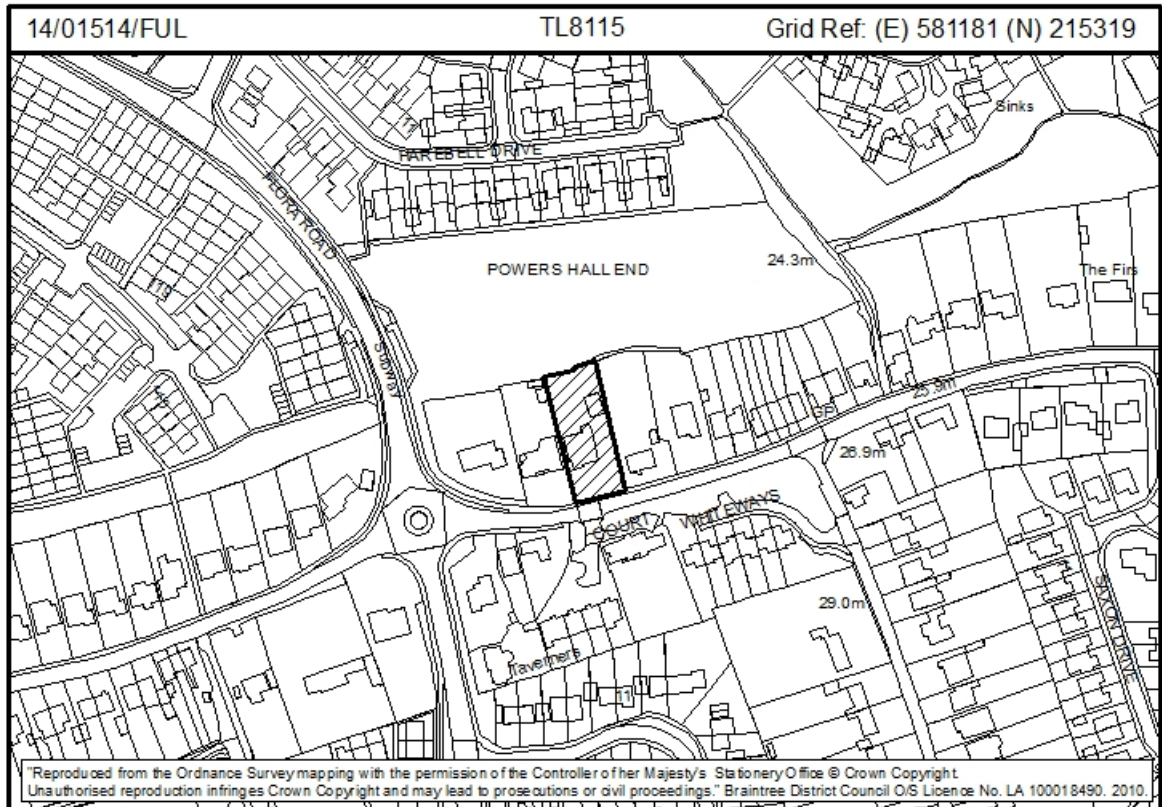
TESSA LAMBERT  
DEVELOPMENT MANAGER

AGENDA ITEM NUMBER 5e

PART B

APPLICATION 14/01514/FUL DATE 04.12.14  
NO: VALID:  
APPLICANT: Mr Trevor Blake  
57 Powers Hall End, Witham, Essex, CM8 2HF  
DESCRIPTION: Conversion of garage to two bedroom residential annexe  
LOCATION: 57 Powers Hall End, Witham, Essex, CM8 2HF

For more information about this Application please contact:  
Matthew Wood on:- 01376 551414 Ext. 2522  
or by e-mail to: [matthew.wood@braintree.gov.uk](mailto:matthew.wood@braintree.gov.uk)





## SITE HISTORY

00/00653/FUL	Demolition of existing garage and erection of new garage	Granted	22.05.00
75/00247/P	Erection of dwelling house.	Granted	16.07.75
07/01002/FUL	Provision of new roof	Granted	14.06.07

## POLICY CONSIDERATIONS

### National Planning Guidance

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

### Braintree District Local Development Framework Core Strategy

CS9            Built and Historic Environment

### Braintree District Local Plan Review

RLP2           Town Development Boundaries and Village Envelopes  
RLP17          Extensions and Alterations to Dwellings in Towns and Villages  
RLP90          Layout and Design of Development

### Other Material Considerations

BDC Site Allocations and Development Management Plan  
Essex Design Guide

## INTRODUCTION

This application is brought before the Planning Committee as the Town Council has raised objection contrary to the officer's recommendation.

## SITE DESCRIPTION

The site is located off Powers Hall End Road, Witham, within the town development boundary as designated in the Braintree District Local Plan Review 2005.

The site currently includes a residential plot with chalet-style bungalow and detached single garage to the side/rear. The site has an open frontage with adequate driveway space and rear garden amenity space.

## PROPOSAL

This planning application seeks approval for the conversion of the existing garage into a two bedroom residential granny annexe with associated external

design alterations including the insertion of new windows and doors as appropriate.

## CONSULTATIONS

Highway Authority – No objection.

Witham Town Council – Object on the grounds that the proposal is a separate dwelling and is back garden development.

## REPRESENTATIONS

A site notice was displayed in close proximity to the site in a publically accessible location and the three properties nearest the site were directly notified of the planning application. No letters of representation have been received.

## REPORT

### Principle of Development

The application site is situated within the Witham town development boundary. Therefore the principle of such residential development is accepted by way of policies RLP 2 and RLP 17. Although Policy RLP 17 refers to extensions, in the absence of any other relevant local planning policy it is considered that the criteria contained within this policy is relevant to this proposal.

### Design, Appearance and Layout

The proposed development consists of the conversion of an existing garage into a two bedroom granny annexe with associated external alterations including the insertion of new windows and doors as appropriate. The building footprint and size/scale would not be altered/extended as part of this proposal.

New windows would be inserted to the front and side of the property with new doors to the front and rear allowing access to the front of the site and existing rear garden space associated with the host dwelling.

Witham Town Council has objected to this proposal on the grounds that it represents a new dwelling and would constitute back garden development. Although the proposal could potentially be capable of separate residential use it is proposed as an annexe to the existing dwelling and is being assessed and considered as such.

Although the proposal would relate to an area to the side/rear of the existing dwelling it relates to the conversion of an existing garage into an annexe therefore it is not considered that such a proposal would constitute inappropriate back land development in this instance.

Given the nature of this proposal and location of the site within a residential area it is considered that the design and appearance of the proposal would be acceptable and conform to the requirements of policies RLP 17 and RLP 90

#### Impact on Neighbouring Residential Amenity

The site is located in a residential area with the closest properties adjacent to the east and west. The subject building is located in close proximity of the eastern boundary of the site and would include the insertion of a new ground level window to its eastern elevation. However, given the positioning of this building in relation to the adjacent residential plot, existing boundary vegetation and fencing, and that a side access would separate the proposed annexe from the boundary with the adjacent residential plot it is considered that this aspect of the proposal would not give rise to an adverse overlooking impact on the adjacent residential plot such that would justify a reason for refusal. Furthermore no letters of representation have been received from adjacent neighbours.

#### Nature of Use

Given the size and nature of the subject plot it is considered unlikely that such a proposal would be acceptable as a separate residential unit/dwelling in its own right. Although the site would have an adequate level of off-street parking provision it is considered that such a proposal would not have an adequate level of private garden amenity space as required by the Essex Design Guide (minimum of 50 square metres). It is further considered that both this proposal and the existing dwelling would both fall below such a requirement should a separate dwelling be proposed in this location. It is also difficult to ascertain how such a plot would be sub divided given the existing context. For these reasons, should planning permission be granted a condition would be attached to ensure the building's use as annexe accommodation only.

#### CONCLUSION

The site is located in a residential area within the Witham town development boundary whereby the principle for new residential development is generally considered acceptable. Given the nature, design, size and scale of that proposed it is considered unlikely that the proposal would have an adverse impact on the local area including by way of overlooking and/or visual intrusion. For these reasons the proposed development is considered acceptable in planning terms subject to appropriate conditions as highlighted previously within this report.

#### 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

General

Plan Ref: AR.G.01

Site Plan

Plan Ref: AR.G.02

- 1 The development hereby permitted shall be begun on or before the expiration of three years beginning with the date of this permission.

Reason

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

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

Reason

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

- 3 The external materials and finishes shall be as indicated on the approved plans and/or schedule unless otherwise agreed in writing by the local planning authority.

Reason

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

- 4 The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as no. 57 Powers Hall End, Witham . It shall not be sold, transferred, leased or otherwise disposed of as an independent residential unit without first obtaining planning permission from the local planning authority.

Reason

In order to enable the local planning authority to give consideration to any residential use of the property other than as a single dwelling unit.

## INFORMATION TO APPLICANT

- 1 All construction or demolition works should be carried out in accordance with the "Control of Pollution and Noise From Demolition and Construction Sites Code of Practice 2012." A copy can be viewed on the Council's web site [www.braintree.gov.uk](http://www.braintree.gov.uk), at Planning Reception or can be emailed. Please phone 01376 552525 for assistance.

TESSA LAMBERT

DEVELOPMENT MANAGER

<b>Recommendation to amend the Scheme of Delegation for Planning Decisions</b>		<b>Agenda No: 6</b>
<p><b>Corporate Priority:</b> Secure appropriate infrastructure and housing growth &amp; Delivering excellent customer service</p> <p><b>Report presented by:</b> Neil Jones, Senior Planning Officer</p> <p><b>Report prepared by:</b> Neil Jones, Senior Planning Officer &amp; Tessa Lambert, Development Manager</p>		
<p><b>Background Papers:</b>          Delivering Delegation; Local Government Association &amp; Office of Deputy Prime Minister, 2004          Local Government Act, 1972 as amended – Section 101          Making your mind up – improving decision-making; Planning Advisory Service, 2008          National Planning Practice Guidance (NPPG)</p>		<p><b>Public Report</b></p> <p>YES</p>
<p><b>Options:</b>          To support the proposed widening of delegation of decisions to Officers          To maintain the existing Scheme of Delegation          To propose some other amendment to the Scheme of Delegation</p>		<p><b>Key Decision:</b></p> <p>NO</p>
<p><b>Executive Summary:</b>          The purpose of this report is to seek the endorsement of Planning Committee for proposed changes to the Scheme of Delegation for determining planning applications, before the matter is put before Full Council in April for approval.</p> <p>The Scheme of Delegation was last reviewed 9 years ago and the level of delegation is relatively low in comparison to planning authorities of a similar size and character. There are a number of areas where there is dissatisfaction with the current arrangements. There is also likely to be an increase in the number and complexity of applications for at least the next couple of years.</p> <p>The proposed changes will ensure that there is a more effective and efficient delegation arrangement. Increasing the number of decisions made under delegated powers will ensure that decisions on planning applications that raise no significant planning issues are made quickly. This will allow Members to focus on those applications that require additional scrutiny and where they can add most value in balancing conflicting pressures. Overall it will help the Council discharge its development management function in an efficient and timely manner, without compromising the quality of the decisions made.</p> <p>Proposals for changes to the Scheme of Delegation were initially presented to the Committee in a report to its meeting on 20<sup>th</sup> January 2015. This report sets out the responses that the Council has received to public consultation about the proposed</p>		

changes and sets out Officers' revised recommendations for amendments to the Scheme of Delegation.

**Decision:**

That Members support the proposal to:

- a) Seek Full Council approval for amendments to the existing Scheme of Delegation in line with the Summary set out below, as part of changes to the Constitution which are proposed for Council approval in April 2015

Summary of Changes

The Council adopt an exceptions based approach to delegation. Applications will be determined at Officer level unless:

- A Councillor requests in writing with valid planning reasons, within 7 days of the public consultation period ending, that an application should be subject of consideration by the Committee,
- The application is in the opinion of the Development Manager, in consultation with the Chairman and Vice Chairman of the Planning Committee, of significant public interest; would have a significant impact on the environment; or should otherwise be referred to Members due to its significance in some other respect,
- The applicant or landowner is Braintree District Council,
- The applicant, or agent, is a Councillor or a Council employee, or the applicant, or agent, is a close relative of a Councillor or Council employee.

That the operation of the revised Scheme of Delegation be subject to monitoring and review as set out below:

- A monitoring report is presented to Planning Committee, initially on a quarterly basis, which will set out the performance levels which have been achieved and the reasons that applications were referred to the Committee.
- The frequency with which the Planning Committees meets is reviewed after 6 months to ensure that meetings are scheduled at the appropriate frequency.
- After the revised scheme has operated for 12 months a report be presented to Planning Committee reviewing the operation of the new scheme and identifying any unforeseen issues and further areas for improvement.

**Purpose of Decision:**

To seek Member support of the widening of the Scheme of Delegation for determining planning applications.

**Corporate implications**

<b>Financial:</b>	A widening of delegation is likely to be associated with efficiency savings, although in the context of increasing pressure on resources it may not deliver a financial saving.
<b>Legal:</b>	The changes will involve adjustments to the Council's Constitution.
<b>Equalities/Diversity</b>	N/A

<b>Customer Impact:</b>	Increased delegation will result in more timely decision-making which is generally seen as an improvement.
<b>Environment and Climate Change:</b>	N/A
<b>Consultation/Community Engagement:</b>	A publicity exercise has been carried out to enable stakeholders to comment on the proposals.
<b>Risks:</b>	Reduction in Member level scrutiny of decision-making. The proposal identifies a check to ensure appropriate scrutiny.
<b>Officer Contact:</b>	Neil Jones
<b>Designation:</b>	Planning Officer
<b>Ext. No.</b>	2523
<b>E-mail:</b>	<a href="mailto:neijo@braintree.gov.uk">neijo@braintree.gov.uk</a>

## **Report**

### **1. Introduction**

- 1.1 A report was presented to Planning Committee on 20<sup>th</sup> January 2014 setting out proposals to change the Council's Scheme of Delegation for determining planning applications. The report set out the issues, challenges and opportunities that these procedural changes could present.
- 1.2 The contents of that report and the recommendation to revise the Council's Scheme of Delegation were discussed at some length by Members and Officers listened carefully to Members views.
- 1.3 The minute from that Planning Committee meeting is set out below:

### **'SCHEME OF DELEGATION**

**INFORMATION:** Consideration was given to a report on a proposal to change the Council's current Scheme of Delegation for the determination of planning applications to an exceptions-based approach. The report outlined the issues, challenges and opportunities that the proposed procedural changes could present.

*Members were advised that the number of applications which were currently determined under delegated powers was relatively low in comparison to other Planning Authorities of a similar size and character to Braintree District Council, and dissatisfaction had been expressed regarding certain aspects of the current Scheme.*

*It was anticipated that the proposed amendments would make the Scheme of Delegation more effective and efficient as they would increase the number of decisions made under delegated powers and ensure that applications without significant planning issues were determined more quickly. The amendments would also enable Members of the Planning Committee to focus on applications which required additional scrutiny, as it was anticipated that there would be an increase in the number and complexity of such applications over the forthcoming two year period. Overall, it was envisaged that the amended Scheme would help the Council to discharge its development management function in an efficient and timely manner, without compromising the quality of the decisions made.*



*In discussing this item, Members expressed concern about the proposal to limit a Councillor's ability to 'call-in' planning applications for consideration by the Planning Committee to those which were 'subject to the agreement of the Chairman of the Planning Committee'. It was suggested that the Chairman's veto should be deleted from the proposal. It was also considered important that all Councillors should receive the 'weekly list' of new planning applications via E-Mail to enable them to review the applications submitted and, if necessary, to 'call-in' an application in a timely manner.*

*Concern was also expressed about the effect of the proposed, amended Scheme on Parish and Town Councils within the District. It was noted that training on planning related matters would be provided for Parish and Town Councils after the District and Parish Council Elections to be held in May 2015.*

*Despite some reservations, Members acknowledged that there was a need to change the existing Scheme of Delegation. It was proposed that the Planning Committee should review the operation of the amended Scheme of Delegation after a period of 12 months in order to identify any unforeseen issues and further areas for improvement.*

*It was suggested that the proposed, amended Scheme of Delegation should be subject to public consultation prior to a recommendation being made for consideration by full Council in April 2015 as part of a report on overall changes to the Council's Constitution.*

**DECISION:**

*(1) That the proposed exceptions-based Scheme of Delegation for the determination of planning applications be published for public consultation, subject to the proposal to limit a Councillor's ability to 'call-in' planning applications for consideration by the Planning Committee to those which were 'subject to the agreement of the Chairman of the Planning Committee' being amended by the deletion of the Chairman's veto.*

*(2) That the responses received following public consultation be reported to the Planning Committee on 17th March 2015 for consideration and to enable the Committee to reconsider the proposed amendments to the Scheme of Delegation and to make a recommendation on the matter to full Council in April 2015 as part of a report on overall changes to the Council's Constitution'.*

- 1.4 In accordance with the wishes of Members the proposal was amended, to remove the Chairman's veto over Member call-in, before carrying out a period of public consultation. The results of the public consultation are included within this report.
- 1.5 The report presented to Planning Committee in January formed the basis of the public consultation, whilst highlighting that it was no longer proposed that the Committee Chairman would have a veto over Member call-in. Letters were sent to the 54 Parish & Town Council in the district; 132 letters were sent to Planning Agents & Developers who regularly submit planning applications to the Council; and notices were placed within the Council page within the Halstead Gazette and the Braintree & Witham Times (Braintree & Witham Editions)



- 1.6 Copies of all the responses received have been appended to this report. In total 27 responses had been received at the time of writing this report. Two were from Planning Agents; 20 letters from Town and Parish Council's and 5 letters from Members of the Public.

## **2. Consultation Responses**

- 2.1 The main issues have been summarised below with Officer Commentary on each point.

- **Applications only need to be referred to Planning Committee where the applicant, or agent is a Council employee who is directly involved in the decision making process**

Under the current Scheme of Delegation applications submitted by elected members or Council employees, or a relative of a Councillor or Council employee, must be determined by Planning Committee rather than by planning officers under delegated power. The proposal originally put before Members did not alter this arrangement. It has however been questioned in a response to the consultation whether this arrangement was too stringent in its application. For example, if a Council employee based in a completely separate Directorate is not in a role where it is likely to be perceived that they might have any involvement or influence over the determination of a planning application. This led Officers to reconsider whether the proposed arrangement was appropriate.

Applicants and agents are required to declare on the planning application form whether they are a Member of the Council's staff, an elected member of the Council or related to a member of staff or elected Member of the Council.

It is noted that the guidance on completing planning application forms, issued by Government, provides advice on the circumstances where such a relationship should be declared. The guidance states that *'For the purposes of this question, 'related to' means related, by birth or otherwise, closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias on the part of the decision-maker in the local planning authority'*.

Further investigation of the arrangements at other Essex authorities reveals that a number of different approaches are taken in specifying which applications need to be referred to Planning Committee. Some specify that only applications from Senior Officers employed in the Authority's Planning / Development Directorate need to be referred (Thurrock), or where the applicant is an Officer at Head of Service Level or above (Harlow); others require all applications be referred where the applicant or agent is a Councillor or a Council employee, or when the applicant is related to a Councillor or Council employee. (Colchester, Chelmsford, Southend-on-Sea).

In this context the concern raised by the agent does have some merit. Nevertheless, the existing arrangements are clearly understood and appear to reflect the expectation (implied by the question in the application form) that any such connections need to be declared. In the interests of maintaining such transparency no change is proposed to this aspect of the proposals.

- **Proposal will reduce the level of scrutiny by Planning Committee**

As set out within the previous report to Planning Committee all reports and recommendations prepared by case officers are checked by the Development Manager, or one of the Area Development Managers. These reports are open to public scrutiny as they are published on the Council's website.

The existing Scheme of Delegation results in approximately one in ten applications being referred to Planning Committee. This means that Members currently scrutinise just over 10% of Officer Recommendations.

The proposed amendments to the Scheme of Delegation are intended to increase the rate of delegated decisions, and it must follow that the Planning Committee will not consider the proportion of applications that it does now.

Officers acknowledge that there will potentially be a reduction in scrutiny by Members through Planning Committee but it is proposed that Members will be able to monitor delegation rates, initially on a quarterly basis, to ensure that the level of delegation does not reach levels which would cause Members to feel they are unable to perform adequate scrutiny over decisions.

In addition it is still proposed that a panel of Members, drawn from the Planning Committee, will be convened to periodically review a selection of cases and provide member feedback on the analysis of applications by Officers.

- **The proposed changes would not require the Planning Committee to determine applications where there is a *'close relationship between Agent and Planning Officer; which is not uncommon'***

Further clarification was sought from Great Bardfield Parish Council as to the 'close relationships' that Officers and agents have as none of the Council's Planning Officers are related to Planning Agents. The Parish Council has confirmed they were referring to the use of overly familiar language in correspondence they had seen within planning applications in years past. They feel that some Officers have developed close working relationships with the inference that this is unacceptable and colours judgements.

Members will be aware that the Government require that Planning Officers act in a "positive and proactive" manner in determining planning applications. Whilst individuals opposed to a planning application might not wish Officers to engage in dialogue this is a necessity. Some Officers will have corresponded with agents over many years on various planning applications and it is difficult to see how in practice applications could be referred to Planning Committee where a Parish Council takes a view there is a 'close relationship' between an Officer and Agent.

Whilst Great Bardfield Parish Council might consider that inappropriate relationships exist between some Officers and agents there is no evidence of impropriety or that Officers have failed to act in a professional manner and in accordance with the Council's Code of Conduct.

- **Decisions are being made by Planning Officers who do not visit sites**

All application sites are visited by the Case Officer and this is recorded in the Site Inspection sheet within the planning file.

- **Not allowing Parish Council's to flag up applications for determination at Planning Committee is contrary to the Localism agenda**

Notwithstanding the Governments Localism Agenda, establishing a local authority's Scheme of Delegation is a matter for local determination. The proposed arrangements would still allow Parish Council's to flag up their concerns - they will continue to be consulted on all planning applications and can continue to submit their views and comments. The difference would be that if they would wish that a planning application is determined by Planning Committee they may need to make and justify such a request by communication with an elected member.

- **Concern that this will give Officers more powers**

The power to make planning decisions is vested with the Planning Committee but the authority to use the power is delegated to Officers in accordance with the Scheme of Delegation. This proposal would widen the authority rather than giving Officers more powers to enable the proportion of applications that are referred to Planning Committee for determination to be reduced. The proposals put before Members recognised the need for appropriate checks and balances and the proposal remains that Members will be involved in a further check on Officers delegated decisions.

- **Parish Council's should still be able to trigger an application going to Planning Committee where they can give '*satisfactory planning reasons ... relative to genuine public interests and local environmental impacts*'**

The proposed change to the Scheme of Delegation still allows for applications to be referred to Planning Committee where there is significant public interest or where there are potentially significant environmental impacts.

The response of Parish Councils will be a factor which will be assessed in determining whether or not to refer the matter to the Planning Committee.

- **Will the system adequately allow Parish Council's to respond to Planning Applications? District Councillors should have 6-weeks to 'call-in' an application, rather than 21 days**

The statutory requirement is that consultees, including Parish Councils are allowed 21 days to comment on a planning application. In practice at Braintree Parish Councils are already allowed 28 days to make their representation in recognition of the cycle of their meetings. It is not proposed that this arrangement is changed. The time constraint of organising a proposed 'call-in' through lobbying of an elected Member is however acknowledged by Officers.

It is proposed to increase this timescale to 7 days after the public consultation expiry date. It would not be possible to extend the time allowed to six weeks as this would leave Officers with too little time to draft a Committee Report and present the application to Committee and keep within the statutory performance targets.

- **Changes are undemocratic and reduce transparency**

As now, all delegated Officer Reports are available for public inspection so they can understand why decisions have been made. Under the proposed scheme applications where there is significant public interest; or where there would potentially be a significant impact on the environment; or should otherwise be referred due to its significance will continue to be referred to Planning Committee for determination.

- **Parish Councils cannot rely on their District Councillors to ‘call-in’ an application to Planning Committee - not all Parish Councils have regular communication with their District Councillor and at the time that Parish Councils discuss applications they do not know what an Officer’s recommendation will be and whether they need to try and get an application called in**

In practice a Member ‘call-in’ usually involves a discussion with the Case Officer or Manager and if the recommendation aligns with the Parish Council’s then the Member may decide a ‘call-in’ is unnecessary.

The proposed Scheme of Delegation does not specify that it must be the Member in whose ward the application is – any Member of the District Council can call an application in providing they cite material planning reasons when making that request.

- **Down-grading of the role of Parish Councils will result in Members of the public taking concerns directly to District Councillors significantly increasing their workload**

Ward Members are likely to already be approached by members of the public about significant planning applications within their areas where concerns exist and this fits in with their roles as community champions.

- **If Parish Councils were offered better training then the quality of their responses could be improved – for example what is a material planning consideration**

Planning Officers have provided training on a number of occasions and all Parish Councils were invited to send representatives. The training provided has covered the existing Scheme of Delegation; the need to provide valid planning reasons to support their representations and an explanation of “material planning considerations” (there is also guidance on the Council’s website which lists what material planning considerations are).

- **This will add to difficulty that lay people will have in accessing and understanding the Planning system**

The delegation scheme as proposed does not discriminate between applicants with or without agents so it is not clear why lay people would be disadvantaged.

- **Brentwood Borough Council achieve a high delegation rate (98%) whilst still sending applications to Planning Committee where the Parish Council view is contrary to the Officer recommendation**

It has been noted that Brentwood has the highest rate of delegation in Essex at 98% whilst operating a scheme of delegation which sends applications to Planning Committee for determination where the Parish Council view is contrary to the Officer recommendation. On this basis, it is argued, there appears no reason why Braintree should not be able to achieve a higher delegation rate whilst still referring applications to Planning Committee where the Parish Council view is contrary to Officer Recommendation.

Officers have investigated the Brentwood arrangements in light of this issue being raised. Brentwood only has 9 Parish Councils and a large part of the district is un-parished. Brentwood Officers report that very few cases end up being referred to Planning Committee simply due to a Parish Council taking a position contrary to the Officer recommendation. Braintree in comparison has 52 Parish Council's and 2 Town Councils. As stated in the previous report to Committee 25% of planning applications that were referred to Planning Committee in the last year solely due to the Parish Council view being contrary to the Officer recommendation. If the current scheme continues there is no reason to believe that this would change.

It should also be noted that Brentwood are currently consulting on amendments to their Scheme of Delegation and one of the recommendations before their Members is that applications are no longer referred to Planning Committee due to a Parish Council taking a contrary view to the Officer recommendation.

It should also be noted that the only other Essex authority which will refer applications to Committee under these circumstances is Maldon – the authority with the lowest rate of delegation within Essex at 73%.

- **A significant number of officer recommendations are overturned at Committee. Increasing the number of decisions made by officers is therefore likely to result in an increased number of decisions being taken which would be contrary to what the Committee's decision would have been if the application had been referred to them**

In raising this point a Planning Agent has said that it would have been helpful had information been supplied showing the number of applications that go to Committee which are over-turned. Analysis of applications before Planning Committee in 2014 shows that 60% of Officer Recommendations were accepted; 35% of Officer Recommendations were varied (e.g. addition of Conditions); 5% of applications where the Officer recommendation was overturned.

The Agents concerns are not borne out by the statistics which show that the majority of Officer Recommendations are accepted by Planning Committee and that the number of Committee over-turns is very small.

- **Scheme could be amended in other ways – for example a variation on the 5 letters of support system so that all of the support/objection letters had to come from neighbouring properties as defined by the site location plan.**

This change would not address the more fundamental shortcomings of the existing scheme of delegation in terms of the efficiency of decision making.

- **The current Scheme of Delegation ensures the most contentious planning applications are determined by Planning Committee**

Some responses state that 9% of applications are '*currently considered too serious for delegation to one Planning Officer*'.

Applications are currently referred to Planning Committee because of the Scheme of Delegation that exists. As identified in the report previously presented to Planning Committee, the current Scheme of Delegation means that too many minor applications, including householder extensions, are being referred to Planning Committee for determination.

- **The system will rely on just three people deciding what is 'significant' and this decision will be taken in ignorance of the strength of public feeling**

Many Parish Councils were concerned that their views would no longer be taken into account in determining planning applications. This is not the case. Officers understand that Parish Councils often hold valuable local knowledge and will draw attention to particular local concerns. As such when it is decided whether an application be referred to Planning Committee for determination those making that decision will consider the views of the Parish Council as well as representations from members of the public. The proposed scheme requires that applications be referred where, amongst other things, there is significant public interest.

Concerns were also expressed about the reliance on the word 'significant' and how this would be interpreted by the Development Manager, the Chairman and Vice Chairman. Whilst this was a concern of several Member of the Planning Committee this concern was not one which was widely expressed in the responses that the Council received from the public consultation.

During discussion at the January Planning Committee meeting Officers referred to some examples of the wording used in the Schemes of Delegation operated by other Essex authorities.

Whilst these concerns are understood, the use of this type of wording is included within the Scheme of Delegation at many of the other Essex planning authorities. A selection of extracts demonstrating this approach at other Essex authorities is set out below.

- *Applications generating significant levels of concern such that the public interest would be best served by deciding the application openly in Committee where representations by the public can be made.*
- *Applications where the officer recommendation would be contrary to Council policy or which raise significant policy issues for the Council.*
- *Applications that the Director of Sustainable Communities feels it is appropriate for the Committee to decide.*



- Any development proposals of major importance to the Council or the whole District or affecting more than one Area Plans Sub-Committee.
- Major planning applications, which Officers, in consultation with the Chairman, consider are likely to be of significant public interest.
- Where a delegated application raises controversial issues or significant community concern, the Head of Planning shall advise the Chairman of Planning and the Chairman of the Council, who may require that the application be reported to that Committee for determination.
- Where proposals which, in the opinion of the Chief Planning and Development Services Officer in consultation with the Chairman of the appropriate Area Planning Committee or the Chairman of the Planning and Licensing Committee are of significant public interest, would have a significant impact on the environment, or should otherwise be referred to Members.
- Applications that in the opinion of the planning officer have significant policy or strategic implications.

This shows that many local planning authorities entrust Officers to use their professional judgement and experience to determine which applications should be referred to Planning Committee for determination.

The recommended wording specifies that planning applications will be referred to Planning Committee where there is significant public interest, and / or would have a significant impact on the environment, and / or should otherwise be referred to Members.

Officers remain of the opinion that this element of the scheme remains unchanged. As stated elsewhere it is proposed that delegation levels and application details are reported to Planning Committee on a quarterly basis. This will allow Members of the Committee to review how the Scheme is being implemented. This will provide mechanisms to feedback any concerns which do arise over how the term 'significant' is being interpreted.

### **3. Conclusion**

- 3.1 Officers remain firmly of the opinion that there is a need to revise the current Scheme of Delegation to ensure that the process is fit for purpose and allows the Council to deal efficiently with the anticipated level of planning applications in the next few years, whilst also ensuring that there is a fair and proportionate system for determining which applications should be referred to Planning Committee.
- 3.2 Members were clear that they did not accept the need for the Planning Committee Chairman to have a power of veto over Member 'call-in's' and this element of the original proposal has been deleted.
- 3.3 The public consultation exercise has elicited very little comment from members of the public or the planning agents that regularly submit planning applications to the Council. There has been a stronger response from a significant number of Town and Parish Councils, with the responses either strongly objecting to the

proposals to down grade their role in the process, or expressing concerns about the practicalities of the arrangements.

- 3.4 Concerns have been raised over how the Scheme would work in practice and Officers agree that there is a need to make some minor alterations to the time allowed for Member call-in and the circumstances where applications made by relatives of Council Members and employees should be referred to Planning Committee.
- 3.5 It is however noted that the concerns that Members expressed over the discretionary nature of the scheme and interpreting what 'significant effects' would be has not been a concern shared by the majority of respondents to the public consultation exercise.
- 3.5 Officers remain of the opinion that the proposed wording is appropriate and reflects what has become accepted practice at many other Essex planning authorities.
- 3.6 Braintree District has a very diverse nature, ranging from market towns to large areas of sparsely populated open countryside. The Scheme has been intentionally designed to allow considered judgements to be made on specific sites, acknowledging that perceptions of environmental impacts and the level of public interest will vary depending on a number of factors including the character of the area and the nature of the development. In a sparsely populated rural area a small number of representations could indicate significant public interest, whereas the same number of representations on an application within an urban ward could indicate limited public interest.
- 3.7 Whilst it is accepted that there will be discretion over which applications will be referred to Planning Committee the proposed wording makes it clear that applications should be referred to Planning Committee where there is significant public interest, or significant environmental effects. The scheme has been designed so that the interpretation of whether the test of significance is met has not been vested in one person – as many other Essex planning authorities do – but instead will lie jointly with the Development Manager, the Chair and Vice Chair of the Planning Committee. Collectively this power will rest with Officers and elected Members holding many years' experience of assessing planning matters, including the potential environmental impacts of a development and the level of public interest. The involvement of the Chair and Vice Chair will ensure that the decision does not rest solely with an unelected official.
- 3.8 For the reasons detailed in the previous report there is a need to revise the current scheme of delegation to ensure that the system is fit for purpose and there was a general acceptance that this was the case amongst the majority of Planning Committee Members.
- 3.9 It is acknowledged that the changes to the Scheme of Delegation will change the profile of applications referred to Planning Committee and where change is proposed there are often reservations or concerns. To address this concern, a process for regularly reviewing how the scheme is operating is proposed to provide Members with information on the scheme's operation and to provide a mechanism to raise concerns should they arise.



#### **4. Process / Next Steps**

- 4.1 Officers seek Member support for the recommendation to revise the Scheme of Delegation in advance of the matter being put before Full Council in April for consideration as part of the proposed changes to the Council's Constitution.

#### **5. Recommendations**

- 5.1 That the Planning Committee supports the proposal to seek Full Council approval for amendments to the existing Scheme of Delegation in line with the Summary set out below, as part of changes to the Constitution which are proposed for Council in April 2015.

#### **Summary of Changes**

- 5.2 The Council adopt an exceptions based approach to delegation. Applications will be determined at Officer Level unless:
- A Councillor requests in writing with valid planning reasons, within 7 days of the public consultation period ending, that an application should be subject of consideration by the Committee,
  - The application is in the opinion of the Development Manager, in consultation with the Chairman and Vice Chairman of the Planning Committee, of significant public interest; would have a significant impact on the environment; or should otherwise be referred to Members due to its significance in some other respect,
  - The applicant or landowner is Braintree District Council,
  - The applicant, or agent, is a Councillor or a Council employee, or the applicant, or agent, is a close relative of a Councillor or Council employee.
- 5.3 That the operation of the revised Scheme of Delegation be subject to monitoring and review as set out below:
- A monitoring report is presented to Planning Committee, initially on a quarterly basis, which will set out the performance levels which have been achieved and the reasons that applications were referred to the Committee.
  - The frequency with which the Planning Committees meets is reviewed after 6 months to ensure that meetings are scheduled at the appropriate frequency.
  - After the revised scheme has operated for 12 months a report be presented to Planning Committee reviewing the operation of the new scheme and identifying any unforeseen issues and further areas for improvement.

**Planning Agents**

**Subject:** Re: Delegation Proposals Consultation

I wonder if you could please pass on the following to Tessa Lambert in response to these proposed changes:

My experience is that a significant number of officer recommendations are overturned at Committee. Increasing the number of decisions made by officers is therefore likely, purely in terms of statistics, to result in an increased number of decisions being taken which would be contrary to what the Committee's decision would have been if the application had been referred to them. I would see this as a serious weakening of scrutiny, and an unwarranted increase in the powers of unelected officials. It would have been useful if statistics on the numbers of over-turned officers' recommendations had been included in the two letters I have just received on the proposals.

With the pre-app advice system not working at all well from my point of view, I see this as potentially a significant further complication in my professional life, and I urge caution.

I know that it is far beyond the time when any suggestions might be considered (I recognise a *fait accompli* when I see one), it would surely have been possible to include a variation on the 5 letters of support system in which, say, all of the support letters had to come from neighbouring properties as defined by the site location plan. My own extension was passed by Committee having been recommended for rejection by the officers (despite agreement at pre-App stage). It only got to Committee because 6 neighbours wrote in support, and under the new proposals, it wouldn't even get to Committee. That would have resulted in a mis-carriage.

Architects all over the district will be shaking their heads in dismay at these proposals.

Regards

Mike Garnham

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**Subject:** RE: Delegation Proposals Consultation

I would like to make a comment about this consultation. The extract below does affect my dealing with planning applications.

- The applicant, or agent, is a councillor or a council employee, or when the applicant, or agent, is a close relative of a councillor or council employee (NB this is the current arrangement for such applicants).

As you are aware my sister works at the council. The policy effectively means all my applications as an agent should be determined by committee. I submit this policy could be changed with the addition of the wording "only directly involved in the decision making process" The policy implies any applicants with a close relative working anywhere in the council albeit Tea Lady/Man or Bin Man/Lady cannot have an application determined by delegation.

Best Regards

Nigel Chapman.

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#### **Parish & Town Council**

- **Bulmer**

Thank you for the information on the above. Bulmer Parish Councillors have discussed the document and a majority are against the proposed changes, as they feel it would dilute the power of the parish council and the views of local residents.

Many thanks

Hannah Fraser  
Bulmer Parish Clerk

- **Bures**

#### **Re: Proposed Changes to the Council's Scheme of Delegation for Planning Applications**

Thank you for your letter dated the 26th January and the accompanying Committee Report. The Parish Council has noted the positive and negative consequences of the proposals outlined in the proposed recommendations.

However members are extremely concerned that these proposals will dilute the powers of parish councils to influence any planning applications and give increased powers to the Officers.

Kind regards  
Jenny Wright  
Clerk to Bures Hamlet Parish Council

- **Castle Hedingham**

**Re: Proposed Changes to the Council's Scheme of Delegation for Planning Applications**

Castle Hedingham Parish Council has considered the above proposal and wishes to make the following comments:

- The perceived restriction on the influence of Parish Councils on decision making is of concern. It is our understanding that if the Parish Council has a valid planning reason for an application to be considered by the Planning Committee, a District Councillor can be asked to call it in. Castle Hedingham Parish Council requests that this procedure is kept as simple as possible in order not to create unnecessary barriers to the Parish Council's influence on the process of referring an application to the Planning Committee
- Our second concern is how the new scheme will fit in with the timing of Parish Council meetings. Castle Hedingham Parish Council meets monthly and considers all planning applications in full council. We are aware that other Parish Councils meet less frequently than this. We would like to be reassured that this is taken into account, enabling Parish Councils to meet deadlines for responding to planning applications under the proposed new scheme of delegation and allowing time for Councillors to refer an application to a District Councillor if necessary.

In other respects Castle Hedingham Parish Council welcomes any changes which will make the delegation process more efficient and effective.

- **Coggeshall**

**Subject:** RE: Delegation Proposals Consultation

Further to the above, please note the following comments from Coggeshall Parish Council

"We would strongly object to these changes. The ability for the Parish Council to request an application to the District Council Committee will become more crucial bearing in mind the pressure from National Government to increase the housing requirement in future years."

Kind regards

**Debbie Morgan**  
**Clerk to Coggeshall Parish Council**

- **Earls Colne**

### **Proposed Changes to the Council's Scheme of Delegation for Planning Applications**

Earls Colne Parish Council continues to have a good relationship with planners on important planning matters within the Parish and would not wish this to diminish. However, members strongly object to these proposals for the following reasons:

- Parish Councils should continue to be heard on planning matters in their Parish as they represent the members of the community and have good local knowledge.
- If justifiable objections are raised by the Parish Council, then those objections should be considered at Committee level. This will ensure openness and transparency when decisions are reached.
- Localism is fundamentally being undermined if decisions which affect the local community are taken away from Parish Councils.

Please refer to Section 8. Recommendations, 8.1 a) first Bullet Point :

Members would wish to see a further bullet point inserted here, as follows:

*"A Parish Council requests in writing, within 21 days of the date of the weekly list circulating details of the application, that an application should be subject of consideration by the Committee."*

Yours sincerely,

Parish Clerk.

- **Feering**

### **Subject: Proposed Changes to the BDC's Scheme of Delegation for Planning Applications**

At its meeting on 23 02 15, Feering Parish Council's Planning Committee commented that it does not agree with the changes proposed concerning the Planning notes. The Parish Councils have a valid comment to make being at grass roots level and any objections made should be taken forward for the Committee to consider.

I would be grateful if you could include these comments when concluding this consultation process.

Kind regards

*Martique Freathy*  
Feering Parish Clerk

- Finchingfield

### **Proposed Changes to the Council's Scheme of Delegation for Planning Applications**

My Council are disappointed to learn of the proposals and feel that the reduction in the level of scrutiny is unwelcome. One member as put more strongly as an affront to the democratic process and very poor timing to implement such proposals when the Local Plan has been withdrawn.

There was unanimous objection to the proposals and any reduction in scrutiny was unacceptable. It was pointed out that Parish and Town Councils would see a downgrading of their influence – which is minimal - although they are in the best position to know and understand their own environment and represent the electorate.

Also the statistics contained in the recommendations contradicted the stance put forward, for example, the table under item 3.4 shows that Maldon, Harlow and Southend have lower levels of delegation than BDC who claim that Committee meetings every two weeks is already excessive. **Yet Maldon, Harlow and Southend still seem to manage with less delegation despite meetings being only monthly.**

Braintree's delegation rate is 91% so presumably the remaining 9% are those applications currently considered too serious for delegation to one Planning Officer. Therefore more delegation doesn't mean discharging the Committee's responsibility for minor schemes. It means discharging them for a proportion of the more complicated or large applications.

Item 3.10 criticises the practice of Parish Councils being able to force applications to Committee level and claims there will be enough checks and balances to render this unnecessary. But Parish Councils do have to represent their electoral and are best placed to do so. It must be remembered that the comments they make are not just of the elected members but from the public forum and concerns raised within the community.

The exclusions under 4.6 do not allow for the situation where there is a close relationship between Agent and Planning Officer. Which rarely has anything to do with being 'related' to an individual but to a working relationship that can build up over years. It can be seen from applications that many agents and architects work in one or two particular districts.

Under Scrutiny e.g. 5.5/5.6 it mentions that occasionally, a team drawn from the Planning Committee will scrutinise the Planning Officer's analysis. However this does not address the many unwelcome and inappropriate schemes that do not get reviewed and 'slip through the net'.

Under Parish/Town Councils 5.7, it claims the Parish Council will still be able to make representation to the Development Manager, Chair and Vice Chair. However this could still

result in favouring the Planning Officer's recommendation and the overall Committee not being aware of the strength of public opinion.

In conclusion my Council object to these proposals and request that the recommendations be rejected.

Yours sincerely

Kate Fox  
Parish Clerk

- Great Bardfield

### **Proposed Changes to the Council's Scheme of Delegation for Planning Applications**

My Council are disappointed to learn of the proposals and feel that the reduction in the level of scrutiny and involvement or influence at the first tier of local government a backward step.

The table under item 3.4 shows that Maldon, Harlow and Southend have lower levels of delegation than BDC who claim that Committee meetings every two weeks is already excessive. **Yet Maldon, Harlow and Southend still seem to manage with less delegation despite meetings being only monthly.**

Braintree's delegation rate is 91% so presumably the remaining 9% are those applications currently considered too serious for delegation to one Planning Officer. Therefore more delegation doesn't mean discharging the Committee's responsibility for minor schemes. It means discharging them for a proportion of the more complicated or large applications.

Item 3.10 criticises the practice of Parish Councils being able to force applications to Committee level and claims there will be enough checks and balances to render this unnecessary. But why shouldn't Parish Councils be able to do this on their electorate's behalf? Often the Parish Council is more aware of relevant historic situations pertaining to the sites than the general public and certainly more able and likely to object/support. **The alternative is to sit and wait for unsuitable schemes to be built on the say-so of a single Planning Officer who might not even visit the site.**

The exclusions under 4.6 do not allow for the situation where there is a close relationship between Agent and Planning Officer; which is not uncommon.

Under Scrutiny e.g. 5.5/5.6 it mentions that occasionally, a team drawn from the Planning Committee will scrutinise the Planning Officer's analysis. **This means that in the meantime,**

**numerous ill-considered schemes could slip through without objections being seen by the Committee.**

Under Parish/Town Councils 5.7, it claims the Parish Council will still be able to make representation to the Development Manager, Chair and Vice Chair. **However this could still result in favouring the Planning Officer's recommendation and the overall Committee not being aware of the strength of public opinion.**

In conclusion my Council object to these proposals and request that the recommendation is rejected.

Yours sincerely

Kate Fox  
Parish Clerk

**Additional correspondence with Parish Clerk concerning comments made in their submission**

**From:** Lambert, Tessa  
**Sent:** 24 February 2015 11:27  
**To:** The Parish Clerk  
**Subject:** RE: SCHEME OF DELEGATION FOR PLANNING DECISIONS

Dear Kate, thank you for forwarding the response from Great Bardfield Parish Council to the consultation on proposed changes to the above.

I note, at paragraph 5, a concern that the existing and proposed arrangements would not apply to the situation where there is a close relationship between Agent and Planning Officer. Clearly the purpose of such restrictions is precisely to prevent a situation where there could be (or where it might be perceived that there could be) inappropriate involvement in the process due to an applicant or agent being related to an Officer or Member. Accordingly I would be grateful if you could clarify the serious allegation that it is "not uncommon" for there to be a close relationship between Agent and Planning Officer.

Regards

**Tessa Lambert**

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**From:** The Parish Clerk  
**Sent:** 24 February 2015 2:02 PM  
**To:** Lambert, Tessa  
**Subject:** RE: SCHEME OF DELEGATION FOR PLANNING DECISIONS



Hi Tessa

One of my Councillors was concerned to address the too friendly conversations that can go on between Officers and Agents and/or Applicants, we find messages on paperwork that appear which indicate a first name term relationship and, for example, thanking an Officer for advice or guidance on modification more likely to ensure approval etc. This of course does not imply any impropriety but is different from an Applicant or Agent being related to an Officer or Member.

Perhaps we need to revisit the response to clarify this if possible.

Regards

Kate Fox  
Parish Clerk

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**From:** Lambert, Tessa  
**Sent:** 24 February 2015 17:05  
**To:** The Parish Clerk  
**Subject:** RE: SCHEME OF DELEGATION FOR PLANNING DECISIONS

Dear Kate,

Thanks for your clarification.

In all applications Officers must maintain a professional relationship with the applicant or agent although that should not rule out the use of first names. As you can see from this email, our corporate email "signature" will put the Officer's first name in the public domain and applicants/agents will often use it in communication.

Another point to draw to your attention is the clear expectation of the NPPF that, in decision-taking, Local planning authorities "should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible." Clearly there will always be applications which the Planning Authority does not support due to conflict with policy or some other material consideration weighs against a proposal. Nevertheless, I trust the above provides some context for the necessary dialogue between applicant and planning authority.

I hope the above helps in your deliberations on whether to revisit the response.

Regards

Tessa  
**Tessa Lambert**

**From:** The Parish Clerk  
**Sent:** 25 February 2015 2:44 PM  
**To:** Lambert, Tessa  
**Subject:** RE: SCHEME OF DELEGATION FOR PLANNING DECISIONS

Hi Tessa

I referred back to Members and most see no reason to change their comments and in fact one member supplied me with the following from his own experience:-

When the garage occupied the site next door to us they made an application for a spray shop against our boundary. The drawings were atrociously inaccurate but seemingly accepted by BDC. I reported the inaccuracies and the drawings were adjusted and a little later, an even taller stainless steel chimney was included on a revised drawing. This only came to my attention because I went to Causeway House to examine the drawings in the file where I found the revised drawing showing the extended stainless steel chimney which had a hand-written note from the Agent to the Planning Officer saying "Hi xxxxxxx, Hopefully the revisions can be put through as a minor amendment" i.e. let's try not to make the neighbours aware of this amendment." It was a long while ago but to me it demonstrated a far too cosy relationship between Agent and Planning Officer.

I have left out the officers name as he is no longer with you and although rare these experiences stay in the memory.

I am just waiting for a couple of more responses but the overall thinking is a reduction in scrutiny and Parish Council input is not appropriate.

Regards

Kate

- **Great Maplestead**

#### Proposed Changes to the Council's Scheme of Delegation for Planning Applications

I write in response to the recent consultation on the proposals of Braintree District Council Planning Committee. The proposals were considered in detail at a full meeting of the Parish Council on 18<sup>th</sup> February 2015.

The Parish Council is broadly supportive of the proposals but does have concerns regarding the future influence of Parish Councils on planning applications. In addition the Council considered

the supporting paper for the proposals to be flawed, with particular questions raised regarding the reliability/accuracy of the statistics quoted, notably delegation rates and assumptions.

Yours sincerely

Mrs Ann Crisp  
Clerk

- **Great Sailing**

### **Recommendation to amend the Scheme of Delegation for Planning Decisions**

Great Salings comments

With localism being the word the Parish Council should be able to flag up any applications that should go to full committee. Parish Councils should have its views taken further into account when officers are making decisions.

It might be worth the planning officer talking to the Parish Council on issues, as the parish council has more local knowledge.

- **Greenstead Green and Halstead Rural Parish Council**

Thank you for sending through the letter from Tessa Lambert at BDC and the Planning Committee report of 20 January. In principle, I broadly agree with the proposal to increase the level of delegation of planning applications to officers in order to speed up the determination process and make it more efficient. It is clear that the new system gives the Development Manager far greater power to decide which applications go to Planning Committee compared to the current system.

However, my principal concern is that the right of a Parish Council or Town Council to trigger an application to go to Planning Committee if the PC/TC recommendation is contrary to officer's recommendation will be lost. I accept that the Parish Council can lobby the Ward Member to request 'call-in' and get the application to Planning Committee if there are valid planning reasons. However, at the present time, when the PC/TC considers a planning application and makes its recommendation, it knows that the application will automatically be reported to Planning Committee if that recommendation is contrary to the officer's recommendation. Under the proposed new system, the PC/TC will have no way of knowing if its recommendation is in line with the officer's recommendation and so will not know whether to lobby the local Ward Member get the application 'called-in'. The Committee report does not explain the process of how this matter will be overcome.

Secondly, the report compares levels of delegation rates with other local authorities in Essex. Braintree's current rate is 91%, ranked the 10th best of the 14 Essex Councils. Brentwood has the highest rate of delegation at 98% and Maldon has the lowest at

73%. The Committee report states that only two authorities In Essex, other than Braintree, require applications to be referred to Planning Committee purely on the basis of a submission by a Parish/Town Council. These happen to be Brentwood and Maldon. Consequently, the argument that PC/TCs submissions adversely affect the rate of delegation is not supported by the evidence. If Brentwood can achieve the highest delegation rate in Essex and still allow PC/TCs to trigger referrals to Planning Committee, then there appears to be no reason why Braintree cannot do the same.

Thirdly, the Coalition Government has strongly supported decision-making at the grassroots level of democracy with the Localism Act and the introduction of Neighbourhood Plans. The proposal to do away with the PC/TCs right to call-in planning applications appears to be contrary to this direction of travel.

Therefore, I would suggest that we ask the Planning Committee to reconsider the loss of the right of PC/TCs to automatically trigger a call in.

Jo Beavis. - Clerk.

Greenstead Green and Halstead Rural Parish Council.

- **Kelvedon**

**Subject:** Proposed Changes to the Council's Scheme of delegation for PLANNING APPLICATIONS by Braintree District Council

Thank you for your letter of 26/1/15 about this issue- we note that the letter did not offer guidance as to how responses could be returned to you- so rang the office and they suggested this method of commenting as you are on leave this week.

I am instructed by Kelvedon Parish Council to object to the proposed operational changes as they remove the power of the first level of democratically elected councillors to comment on planning applications that are planned to occur in their village. The Localism agenda seeks to place greater authority in the hands of local people where- as this proposal seems to draw even more power to the centre in the form of the Principal Authority-BDC. This seems to be contrary to the wishes of Parliament in the Localism Act of 2011.

You propose that the initial power of challenge should come instead from our District Councillors and that issues should be raised with them in the first instance and that they can then get challenging planning decisions placed before the full Planning Committee. Neither of our two District Councillors regularly attend our meetings and indeed the one who sits on the BDC Planning Committee has I am told not attended one of our meetings in six plus years! Thus there is a communicatioin difficulty.

Time when dealing with planning applications is often tight and the introduction of this intermediate layer of representation will/may make it difficult for us to communicate in a timely way with the planning committee.

We on our own, will not be able to call cases in and we are already in the position where we cannot challenge decisions that have already been made- thus is there still any point in having a Parish Council Planning Committee? The Planning Committee of this Parish Council try to behave in a professional way and to do what is best for the community be they applicant or objector and I do not believe that we arise petty matters to the Full Planning Committee.

It is the position of the Essex Association of Local Councils and the national body that all parishes should be parished but the Principal authority has to put this structure in place.

There are also concerns about the oversight of Planning Officers work as only 10% of their decisions seem to be checked by the Planning Vommittee.

Thus Kelvedon Parish Council is concerned about the proposed approach.

Regards

Peter Studd

Parish Clerk, Responsible Financial Officer and Appropriate Officer

- **Rayne**

### **Proposed Changes to the Council's Scheme of Delegation for Planning Applications**

Thank you for your letter dated 26<sup>th</sup> January and for allowing the Parish Council to be involved in the consultation on proposed changes to the Scheme of Delegation.

Rayne Parish Council welcomes moves to streamline and improve the efficiency of the planning service, however, it is considered that the current facility enabling the parish council to address the Planning Committee direct should not be removed. Furthermore, Councillors are unhappy with any attempt to restrict parish council input and are concerned that planning officers, not necessarily having local knowledge, would be required to make delegated decisions on planning issues of significant local public interest.

I trust the parish council's views on this matter will be taken into consideration when the matter is re-presented to the Planning Committee on 17<sup>th</sup> March.

Yours sincerely,

Mrs Sarah Cocks  
Clerk to the Council

- **Stisted**

### **Proposed Changes to the Council's Scheme of Delegation for Planning Applications**

Stisted Parish Council object to these proposals for the following reasons.

We feel that these proposals devalues localism and is a less open process. Planning applications would be decided by officers who may never even visit the site and may not have any local knowledge, whereas Parishes have more relevant historical and local knowledge which would be more beneficial to the decision.

We also feel that these proposals pose a risk to the committee being unaware of the strength of public opinion, and ultimately we are a democracy and every member of the public should have the power to voice an objection to a planning application.

Yours sincerely

Mrs. Sam Edwards  
Clerk to Stisted Parish Council.

- **White Colne Parish Council**

**Subject:** Delegation Proposals Consultation

Thank you for sending us details of the delegation proposals consultation.

We strongly object to the proposal outlined in the second bullet point.

This relies on just three people to decide what is "significant." We elect our district councillors to represent us and this suggestion is undemocratic and does not allow our councillor the opportunity to make a representation in an open forum. Also there is no longer an opportunity for applications to be called in if numbers of residents object.

Local views are important, as details which may seem totally insignificant to someone away from the area could easily be very significant to the resident living next door to the proposed development or to the village as a whole.

Regards

David Williams  
Clerk  
White Colne Parish Council

- **White Notley and Faulkbourne Parish Council**

### **Proposed Changes to the Council's Scheme of Delegation for Planning Applications**

White Notley and Faulkbourne Parish Council object to these proposals for the following reasons:

Whilst we accept that the majority of planning applications are determined at officer level we also consider that a 91% delegation rate shows that the current process is working effectively. The remaining 9% must be those applications that are considered too serious for delegation to officers, therefore more delegation doesn't mean discharging the Committee's responsibility for minor schemes, it means discharging them for a proportion of the more complicated or large applications. This proposal clearly devalues localism at a time when more decisions should be taken locally.

Councillors consider that the proposals will lead to a general perception that planning decisions are being made via a less open process and without the benefit of local knowledge.

Item 3.10 criticises the practice of parish councils being able to force applications to Committee level and claims there will be enough checks and balances to render this unnecessary. Parish Councils are more aware of relevant historic situations and usually have better local knowledge pertaining to sites than the general public and planning officers so why shouldn't they respond on behalf of their electorate and 'force' applications to Planning Committee? The alternative is to sit and wait for unsuitable schemes to be built on the say-so of a single planning officer who might not even visit the site.

The fact that a very small area of the district is unparished is surely a minor consideration here; residents in the unparished area can contact their relevant district councillor in the same way that residents in the parished areas can contact their parish council as a statutory consultee. If parish councils lose their right to force an application to committee this would restrict their influence on decision making and residents could end up losing faith in their parish council and go directly to their district councillors which would seriously increase their workload.

It is accepted that not all responses from parish councils are solely related to material planning considerations and planning policy but better training opportunities for parish councillors could address this. A better understanding of what are and what are not material planning considerations and what planning officers simply disregard from responses would help to address the issues raised in items 3.12, 3.13, 3.14 and 3.15. However some local knowledge included in parish council responses could be helpful to officers or Planning Committee members for those that are unfamiliar with the area in question.

The exclusions under 4.6 do not allow for the situation where there is a close relationship between Agent and Planning Officer.

Under Scrutiny e.g. 5.5/5.6 it mentions that occasionally, a team drawn from the Planning Committee will scrutinise the Planning Officer's analysis. This means that in the meantime, numerous ill-considered schemes could slip through without objections being seen by the Committee.

Under Parish/Town Councils 5.7, it claims the parish council will still be able to make representation to the Development Manager, Chair and Vice Chair. However this could still result in favouring the Planning Officer's recommendation and the overall Committee not being aware of the strength of public opinion.

Yours sincerely

Angela Balcombe  
Clerk to White Notley and Faulkbourne parish Council

- **Braintree Association of Local Councils**

### **Proposed Changes to the Council's Scheme of Delegation for Planning Applications**

The Braintree Association of Local Councils (BALC) object to these proposals for the following reasons:

Whilst we accept that the majority of planning applications are determined at officer level we also consider that a 91% delegation rate shows that the current process is working effectively. The remaining 9% must be those applications that are considered too serious for delegation to officers, therefore more delegation doesn't mean discharging the Committee's responsibility for minor schemes, it means discharging them for a proportion of the more complicated or large applications. This proposal clearly devalues localism at a time when more decisions should be taken locally.

Councillors consider that the proposals will lead to a general perception that planning decisions are being made via a less open process and without the benefit of local knowledge.

Item 3.10 criticises the practice of parish councils being able to force applications to Committee level and claims there will be enough checks and balances to render this unnecessary. Parish Councils are more aware of relevant historic situations and usually have better local knowledge pertaining to sites than the general public and planning officers so why shouldn't they respond on behalf of their electorate and 'force' applications to Planning Committee? The alternative is



to sit and wait for unsuitable schemes to be built on the say-so of a single planning officer who might not even visit the site.

The fact that a very small area of the district is unparished is surely a minor consideration here; residents in the unparished area can contact their relevant district councillor in the same way that residents in the parished areas can contact their parish council as a statutory consultee. If parish councils lose their right to force an application to committee this would restrict their influence on decision making and residents could end up losing faith in their parish council and go directly to their district councillors which would seriously increase their workload.

It is accepted that not all responses from parish councils are solely related to material planning considerations and planning policy but better training opportunities for parish councillors could address this. A better understanding of what are and what are not material planning considerations and what planning officers simply disregard from responses would help to address the issues raised in items 3.12, 3.13, 3.14 and 3.15. However some local knowledge included in parish council responses could be helpful to officers or Planning Committee members for those that are unfamiliar with the area in question.

The exclusions under 4.6 do not allow for the situation where there is a close relationship between Agent and Planning Officer.

Under Scrutiny e.g. 5.5/5.6 it mentions that occasionally, a team drawn from the Planning Committee will scrutinise the Planning Officer's analysis. This means that in the meantime, numerous ill-considered schemes could slip through without objections being seen by the Committee.

Under Parish/Town Councils 5.7, it claims the parish council will still be able to make representation to the Development Manager, Chair and Vice Chair. However this could still result in favouring the Planning Officer's recommendation and the overall Committee not being aware of the strength of public opinion.

Yours sincerely

Angela Balcombe  
Secretary to the Braintree Association of Local Councils

## **Public**

### Delegated decisions

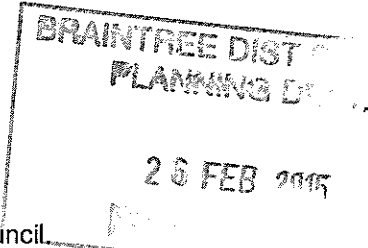
I am concerned that planning applications will be decided in a less transparent manner and very concerned at the removal of powers and scrutiny for Parishes. If there is concern that Braintree is unparished and therefore at disadvantage then perhaps this should be separately addressed. Planning applications are complicated and stressful enough for lay people as it is and these will be the ones who 'suffer' most from these proposed changes not the Developers who are well versed and have the financial backing to couch requests in the most advantageous way

**Julia Smith, 32 Alexandra Rd, Sible Hedingham, Essex, CO9 3NE**

## Simmons, Fay

---

**From:** Les Prescott  
**Sent:** 25 February 2015 15:04  
**To:** Planning Comments  
**Cc:** cllr.dreid@braintree.gov.uk  
**Subject:** Delegation of Planning Applications.



Attn: Ms.Tessa Lambert, Development Management, Braintree District Council

NJ

Madam,

Reference is made to the article in the Braintree and Witham Times and the proposed changes to the Delegated Planning Application Scheme.

The present scheme may be considered as already denying the rights of residents with legitimate opposition to a planning application to make representation to the elected members of Council, viz: the Planning Committee. The new proposals represent yet a further diminution of those rights, and I am therefore opposed. A brief resume of my objections are as follows.

1.  
It is a further erosion of democracy and shows an extension in the lack of transparency. In many ways the present scheme already allows powers to be exercised by the unelected, some decisions of which have not been without controversy.
2.  
Powers vested in unelected employees, rather than an elected body, would seem to be fertile grounds for accusations of abuse if not corruption, even though without foundation.
3.  
The question of costs as well as more timely decisions is raised. Justice on the cheap or in haste is often justice denied. The argument on the basis of cost is specious, as the applicant should be expected to bear the full cost, rather than the rate payer.
4.  
The "neutering" of Parish/Town Councils' is nothing short of scandalous. Whilst Parish/Town Councils can, no doubt, be an irritant to BDC they are far closer to a particular matter than District Council, and yet they are to be denied a hearing before the Planning Committee.

May I therefore suggest the proposed changes be given short shrift..

L.T.Prescott.  
Stag House, Cornish Hall End, Nr.Braintree, VM74JL.

P.S.  
Whilst I may have missed earlier publications. I did not become aware of the announcement until I received the B&W Times last week. I believe last week was schools' half term, and as comment is required by the 27th of February, some may not have had adequate time to respond.



This email is free from viruses and malware because avast! Antivirus protection is active.

## Lambert, Tessa

---

**From:** Customer Services  
**Sent:** 16 February 2015 08:46  
**To:** Lambert, Tessa; planningpolicy  
**Subject:** WORK - Customer Enquiry - Planning Services - Planning Policy - 1-25634819

**ActivityID:** [REDACTED]  
**ConnectString:** [REDACTED]  
**Debug:** FALSE  
**EnableActivityCreation:** TRUE  
**LanguageCode:** ENU  
**SiebelEmailFormat:** Plain Text  
**TempDir:** C:\Users\katba\AppData\Local\Temp\

The following Customer enquiry was received by the CSC today for your department. Please can you kindly action and reply to the message to advise us that the enquiry has been dealt with.

Many thanks

Customer Services

To:

**Service Request No:** 1-25634819  
**Contact:** MR GRAHAM SMITH  
**Tel No:**  
**Mobile No:**  
**Alt Tel No:**  
**Email Address:** [REDACTED]  
**Street Address:** 32 ALEXANDRA ROAD SIBLE HEDINGHAM HALSTEAD ESSEX CO9 3NE  
**SR Opened Date/Time:** 16/02/2015 08:43:06  
**Created By:** KATBA  
**Department:** Planning Services  
**Service:** Planning Policy  
**Description:** From: Apache [<mailto:apache@www.braintree.gov.uk>] On Behalf Of [webmaster@braintree.gov.uk](mailto:webmaster@braintree.gov.uk)

**Sent:** 15 February 2015 3:00 PM  
**To:** Customer Services  
**Subject:** Have your say - contribute to a Council consultation

Have your say  
81355  
15-02-2015 14:59:47  
Question      Response  
First Name:    Graham  
Last Name:     Smith  
House name/number: 32  
Street: Alexandra Rd

Town: SIBLE hedingham

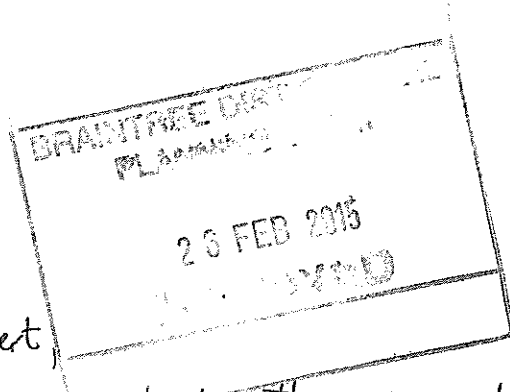
County: Essex

Postcode: CO9 3NE

E-mail address : [REDACTED] name: Delegated decisions

Please provide your comments and views about the consultation: I am concerned at the present inconsistencies in planning decisions and feel that the new proposals will only aggravate this lack of cohesion and seemingly ad hoc decisions. If members are not willing to put forward cases and if Parishes and interested parties are not able to make comments I feel there will be a disturbing lack of public debate on all but the largest of developments. This will leave individuals and small developers with no recourse but to make appeal to the Inspectorate causing great expense to tax payers. I personally have suffered from maladministration, public accusations of being untruthful, officers misleading the Inspector and misinformation being given at committee stage. I am told that I cannot expect an apology as 'planners just do what they like'. I feel that handing over more decisions to delegated authority would alienate the electorate and cause I'll feeling towards Councillors and Officers

"This e-mail is confidential and is meant only for the person it was first addressed to. If you are not the intended recipient, please notify the sender immediately, either by e-mail or by telephone +44(0)1376 552525. You must also delete the message concerned from all locations in your computer and your computer network. Please also note that unless stated explicitly, this information is not necessarily the view or policy of Braintree District Council and it does not form any kind of contract. Finally, you must not copy this e-mail, use it for any purpose or disclose its content to any person, without first gaining the express permission of the sender. Failure to do so may be unlawful."



83 Beridge Road,  
Halstead,  
Essex, CO9 1JX  
25<sup>th</sup> February 2015

Dear Tessa Lambert,

I have read about the proposed changes to the Council's Scheme of Delegation for Planning Applications.

I do not agree with the recommendation concerning Parish/Town Councils para 5.7, which states that Parish/Town Councils would see a downgrading of their influence within the process.

I consider it most important that Halstead's local Councils have as much influence as possible on planning applications in our area. They should be consulted and be able to discuss and to vote about proposed building work.

Our town and parish councils have valuable knowledge of the local area and its people and have been elected to seek out and represent the views of the people who live here. Their influence should not be downgraded.

Yours Sincerely,

Signed Mrs J Brimley

TO Tessa LAMBERT  
BDC.

WINDRUSH  
COGGESHALL ROAD  
FEERING, COLCHESTER  
ESSEX CO5 9QR  
TELEPHONE 0706 800000

BRAINTREE DIST  
PLANNING DEPT  
21/2/15 FEB 2015  
RECEIVED

Dear Tessa,

NS  
PLANNING DELEGATION PROPOSALS

We note that the Proposals are to delegate more responsibility for Decisions to Officers. The Parish Councils, as a Consultee will have less influence so we would like to ensure that any public concerns raised are passed onto the relevant Officers and Councillors.

We wish to clarify that the Public will still be allowed to attend Meetings and have the opportunity to make a short speech when Applications are being determined. This we assume applies to both the Planning Committee AND Delegated Planning Meetings.

P.T.O.

2.

Your confirmation on this  
matter would be appreciated.

Yours Sincerely  
[Redacted]

(MR. T. PAILTHORPE)

PLANNING, KELVEDON & FEERING HERITAGE SOCIETY



# Rivenhall Parish Council

*SERVING THE COMMUNITIES OF RIVENHALL AND RIVENHALL END IN THE BRAINTREE DISTRICT  
IN THE COUNTY OF ESSEX*

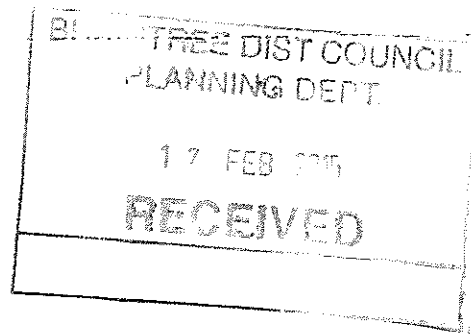
## **CLERK TO THE PARISH COUNCIL**

Mr Keith P. Taylor  
23 Mersey Road, WITHAM,  
Essex, CM8 1LL  
Tel: (01376) 516975  
Email: [parishclerk@rivenhallparishcouncil.net](mailto:parishclerk@rivenhallparishcouncil.net)  
Website: [www.rivenhallparishcouncil.net](http://www.rivenhallparishcouncil.net)

16 February 2015

Our Ref: F4/P4

Ms. Tessa Lambert  
Braintree District Council  
Sustainable Development  
Causeway House  
Braintree  
CM7 9HB



Dear Ms. Lambert,

### **Proposed changes to the Council's Scheme of Delegation for Planning Applications.**

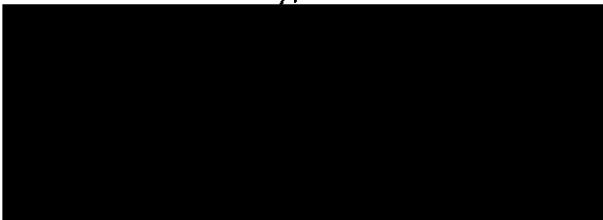
I refer to your letter dated 26 January 2015 relative to the above.

The observations/comments of Rivenhall Parish Council are as follows:

That, under the recommendations, 6 weeks, not 21 days, should be given for a Councillor to make a request in writing to have the application made subject to consideration by the Planning Committee, so that this falls within the general cycle of Parish Council meetings.

Also, allied with the above comment, that, subject to satisfactory planning reasons being given relative to genuine public interests and local environmental impacts, Parish Councils should still be able to trigger an application going to the BDC Planning Committee as current.

Yours sincerely,



Keith P. Taylor  
Clerk to the Council.

# Colne Engaine Parish Council

Clerk: Terry Rootsey

3 Box Mill Cottages, Box Mill Lane, halstead CO9 2DR

Telephone 07946 096331

Email: [clerk@colne-engaine.org.uk](mailto:clerk@colne-engaine.org.uk)

Tessa Lambert  
Development Manager  
Braintree District Council  
Sustainable Development  
Causeway House  
Braintree CM7 9HB

13<sup>th</sup> February 2015

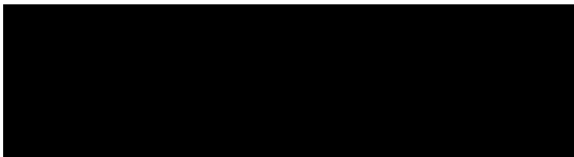
Dear Sir

Proposed Changes to the Council's Scheme of Delegation for Planning Applications.

In response to your letter of 26<sup>th</sup> January seeking the Parish Council's views on these proposals the matter was discussed at a full Council meeting on 12<sup>th</sup> February.

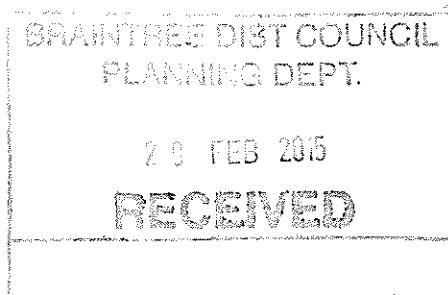
The Members of the Council were unanimous in their opinion that the proposals were undemocratic and totally unacceptable and furthermore could see no justification for the downgrading of their influence as detailed in 5.7 of the report.

Yours faithfully



Terry Rootsey  
Clerk for the Council.

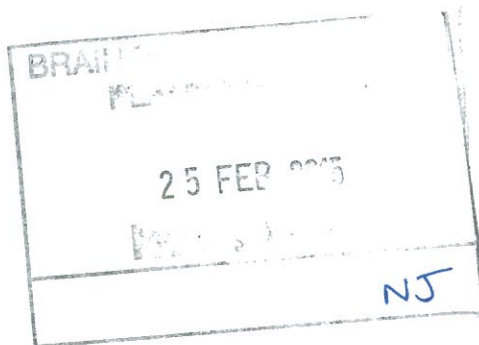
cc. Cllr G Spray  
Cllr C Siddall



## Witham Town Council

Town Hall  
Newland Street  
Witham  
CM8 2FE

Tel: 01376 520627  
Fax: 01376 502674  
Email: [deputytownclerk@witham.gov.uk](mailto:deputytownclerk@witham.gov.uk)  
Website: [www.witham.gov.uk](http://www.witham.gov.uk)



23<sup>rd</sup> February 2015

Ms T Lambert  
Development Manager  
Sustainable Development  
BRAINTREE DISTRICT COUNCIL  
Causeway House  
Braintree  
Essex CM7 9HB

Dear Ms Lambert

### **Proposed Changes to the Council's Scheme of Delegation for Planning Applications**

Town Councillors have discussed the proposals to change the above scheme as set out in your letter of 26<sup>th</sup> January 2015 and your extensive Report to the Planning Committee, at some length.

Town Councillors appreciate the need to keep all working practices under review to ensure they are operating in the most effective way, but strongly object to these proposals in their current form, because they devalue localism, at a time when more decisions should be being taken locally. Councillors consider that a 91% delegation rate shows that the process is working effectively and in line with other councils, and cannot support a proposal that is detrimental to the democratic process.

Councillors consider that the proposals will lead to a general perception that planning decisions are being made via a less open process and without the benefit of local knowledge.

The influence of Parish and Town Councils on planning decision making will be restricted, and they will remain a statutory consultee in name only. There

will be a lower level of scrutiny of officers by the BDC Planning Committee and the Public and a potential increase in workload for District Councillors.

Town Councillors would like to offer a number of alternative solutions for consideration:-

In those cases where a parish/town council and BDC officer recommendations differ, BDC refer the application back to the parish/town council with their recommendation and reasons, and a request for re-consideration giving consideration to this new information (deadlines for responses would need to be amended accordingly).

- If the parish/town council continue to believe the application should be referred to Committee, and gains the support of a District Councillor, this application should be referred to Committee.
- Where a decision is made not to include a disputed application on a Planning Committee Agenda, the Development Manager should be required to respond to the statutory consultee council explaining why.

Applications for work on protected trees and in the Conservation Area should be included within the scheme of delegation as “planning applications” to ensure consistency.

Councillors support the proposals to refer the following to BDC Planning Committee:-

- Where the application is in the opinion of the Development Manager, in consultation with the Chairman and Vice Chairman of the Planning Committee, of significant public interest; would have a significant impact on the environment or should otherwise be referred to Members due to its significance in some other aspect.
- Where the applicant or landowner is BDC
- The applicant, or agent, is a councillor or council employee, or when the applicant, or agent is a close relative of the councillor or council employee (as per current arrangements for such applications)

BDC could also consider encouraging better engagement at LPA level with an applicant, to refine an application before the statutory consultation. Some officers are very good at this, and put steps in place to mitigate inevitable local concerns early in the process. Appropriate staff resources could be recruited and trained to cope with the anticipated increasing workload.

A more radical option would be to re-introduce a number of smaller local Planning Committees consisting of District Councillors from a local area to spread the workload more appropriately and to demonstrate a strong practical commitment to localism.

Yours sincerely



**JANE COLEMAN**  
**Deputy Town Clerk**  
**Witham Town Council**

**Cc Priti Patel MP**

<b>Changes to Planning Obligations</b>		<b>Agenda No: 7</b>
<b>Corporate Priority:</b> <b>Securing appropriate infrastructure and housing growth</b> <b>Portfolio:</b> <b>Planning and Property</b> <b>Report Presented by:</b> <b>Alan Massow</b> <b>Report prepared by:</b> <b>Alan Massow</b>		
<b>Background Papers:</b> National Planning Policy Framework (NPPF) National Planning Policy Guidance (NPPG) (Updated 28/11/14) Core Strategy (2011) Housing Act (1985) <del>The Housing (Right to Acquire or Enfranchise) (Designated Rural Areas in the East) Order 1997</del>		<b>Public</b>
<b>Options:</b> To note national changes to planning obligations.		<b>Key Decision: No</b>
<b>Executive Summary:</b>  <p><b>This report updates a previous report following clarification of the interpretation of the revised guidance. The report shows the consequences of that clarification either as new information (<u>where underlined</u>) or struck through where no longer correct.</b></p> <p>Government has issued a revision to National Planning Policy Guidance (NPPG) relating to the circumstances in which Local Planning Authorities should or should not seek s106 contributions. This change in the guidance means that the Council will not be able to seek contributions for affordable housing and open space on small sites to the same extent as set out in the adopted Core Strategy policy.</p> <p>The changes set out in the NPPG require that affordable housing and other tariff based contributions should not be sought from sites of 10 dwellings or less (and which have a maximum floor space of 1000 sqm). Local Authorities can choose to reduce the threshold to 5 dwellings in rural areas <del>as set out in the Housing (Right to Acquire or Enfranchise) (Designated Rural Areas in the East) Order 1997</del> and listed at <b>Appendix 1</b>.</p> <p><u>On the 23<sup>rd</sup> January CLG issued a clarification as to what was a designated rural area. Under the new guidance, Braintree District does not have any designated rural areas. It can therefore not ask for any contributions from developments of less than 11 dwellings unless they are required to make a development suitable in planning terms.</u></p> <p>The change in guidance has implications for the Council's Open Spaces SPD as housing development of less than a certain number of dwellings would not have to provide open spaces contributions.</p>		

Contributions can still be sought from any development if they are required to make a development acceptable in planning terms.

**Decision:**

To note the changes to National Planning Policy Guidance, and the implication this has to current adopted Planning Policy.

**Purpose of Report:**

**To make members aware of changes to national planning guidance, and the implications it has for the application of current planning policy.**

**Corporate Implications**

<b>Financial:</b>	<del>Reduced</del> <u>No</u> contributions can be sought from smaller development in rural areas, particularly in relation to open space, <u>unless required to make development suitable in planning terms.</u>
<b>Legal:</b>	More detailed s106 negotiations required.
<b>Equalities/Diversity</b>	N/A
<b>Customer Impact:</b>	Reduced costs associated with developing smaller sites but less funding for improving local facilities, and the provision of affordable housing.
<b>Environment and Climate Change:</b>	N/A
<b>Consultation/Community Engagement:</b>	Government carried out a consultation on the changes.
<b>Risks:</b>	Legal costs associated with challenges to s106.
<b>Officer Contact:</b>	Alan Massow
<b>Designation:</b>	Senior Policy Planner
<b>Ext. No.</b>	2577
<b>E-mail:</b>	<a href="mailto:Alan.massow@braintree.gov.uk">Alan.massow@braintree.gov.uk</a>



**This report updates a previous report following clarification of the interpretation of the revised guidance. The report shows the consequences of that clarification either as new information (where underlined) or struck through where no longer correct.**

## **1. Background**

- 1.1 In March 2014 Government published National Planning Policy Guidance (NPPG), to help Local Authorities in the interpretation of the National Planning Policy Framework and in the making of Local Plans and the determination of planning applications.
- 1.2 This guidance is updated as and when required by Government.
- 1.3 A clarification has been issued by CLG regarding the relevant legislation which should be used when determining which rural areas the change to National Guidance effects.
- 1.4 The clarification is as follows: “The only relevant areas for S106 threshold purposes are those set out in section 157 of the Housing Act 1985. These are National Parks, Areas of Outstanding Natural Beauty, and areas designated as rural for the purposes of Right to Buy by the Secretary of State. There are separate designations for the purposes of Right to Acquire and the Right to Enfranchise – these are set out in Statutory Instruments made in 1997, 1999 and 2009. The areas covered by these designations are not the same as those designated under S157.”
- 1.5 No rural areas in the District are identified under S157 of the Housing Act. In Essex several parishes in Rochford and Tendring are designated rural areas.
- 1.6 It should be noted that the Rural Housing Advisory Group have sought some further clarifications from CLG. In addition a judicial review is being sought by Reading and West Berkshire Councils over these changes.

## **2. Changes to Planning Obligations**

- 2.1 On the 28<sup>th</sup> November 2014, an update was issued, with immediate effect, to the section of the NPPG concerning Planning Obligations.
- 2.2 The changes are as follows;
  - Contributions should not be sought from developments of 10 units or less, and which have a maximum combined gross floorspace of no more than 1000 sqm.
  - In designated rural areas (See 3 below), Local Planning Authorities may choose to apply a lower threshold of 5 units or less. No affordable housing or tariff style contributions should then be sought from these developments.
  - In rural areas, where the lower threshold is used, on developments of 6 to 10 units affordable housing and tariff style contributions be sought from development, but not affordable housing units on site. Any financial

contributions sought should be commuted until after completion of units within the development.

- Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home.
- Contributions can still be sought from all developments if they are required in planning terms to make a development acceptable e.g. highways matters.
- Commuted contributions should be sought on completion of units.

### 3. Designated Rural Areas

- 3.1 ~~Braintree District has no designated rural areas and the exception cannot be applied. As set out in the guidance, the lower threshold of 5 units can be applied in designated rural areas as set out in the The Housing (Right to Acquire or Enfranchise) (Designated Rural Areas in the East) Order 1997.~~
- 3.2 ~~A list of areas within the District that are designated rural areas is provided at Appendix 1 to this report.~~
- 3.3 ~~Within these designated areas the Local Planning Authority can choose to apply the lower threshold of 5 dwellings, which means contributions for affordable housing and other tariff style contributions can be sought for developments between 6 and 10 units, rather than just for 11 units or more.~~
- 3.4 ~~It should be noted that some parishes in the District are not considered rural as defined by the Government and are not included within the list. These include Coggeshall, Sible Hedingham, Silver End, Earls Colne, Great Notley, and Hatfield Peverel where the population is over 3,000.~~
- 3.5 ~~It is therefore necessary to reaffirm that for the purposes of deciding whether or not affordable housing contributions are required, that the Council considers the areas designated as rural areas in the Housing Act (1985), as areas in which the lower threshold of 5 units applies.~~

### 4. Implications for Affordable Housing

- 4.1 The Core Strategy (2011), policy CS2 - Affordable Housing, requires the provision of affordable housing on sites in rural areas which consist of 5 or more dwellings or a site greater than 0.16ha in rural parishes. Affordable housing should be provided on the site by the developer in the first instance, but where this was impractical an off-site contribution may be acceptable.
- 4.2 In terms of the site size thresholds referenced in policy CS2, it is unlikely that any weight could be attributed to the figure of 0.16ha or 0.5ha, as the new guidance only refers to housing numbers. The guidance does however prevent the artificial reduction of a site in order to avoid the threshold of contributions.

- 4.3 As the area has no designated rural areas, affordable housing contributions and other tariff based contributions cannot be sought from developments of less than 11 units.
- 4.4 ~~Where Parishes are included as a designated rural area the District Council can continue to ask for a contribution to affordable housing on sites between 6 and 10 homes, but this must be a commuted sum payable at the completion of development, rather than on site provision.~~
- 4.5 ~~However for sites in those Parishes, which have a population of over 3,000 and are therefore not a designated rural area the District Council will no longer be able to ask for an affordable housing contribution unless the development provides at least 11 new homes.~~
- 4.6 As the District Council has a higher affordable housing threshold for urban areas (15 dwellings), the Core Strategy policy in relation to development in urban areas remains unaffected.

## **5. Implications for Open Space Contributions**

- 5.1 The Council's Open Spaces SPD requires contributions for the provision and maintenance of open space from the creation of 1 or more new housing units on previously undeveloped sites, the net increase in housing units from re-development sites or the conversion of existing dwellings or change of use of other buildings, institutional uses, agricultural workers dwellings, self-catering holiday accommodation (that is capable of normal residential use), and Gypsy/Traveller/Residential caravan sites.
- 5.2 Presently, therefore for every new home in the District, together with the other uses listed above the District Council seeks a Unilateral Undertaking from the developer to provide a contribution to open space improvements which have been identified through the Open Spaces Action Plan.
- 5.3 The SPD is supported by Core Strategy policy CS10 – Provision for Open Space, Sport and Recreation.
- 5.4 As the SPD is tariff based, under the new guidance, development in the district urban areas ~~and those Parishes which do not meet the criteria for a designated rural area~~, for less than 11 housing units would not have to provide a contribution towards open space.
- 5.5 ~~Where Parishes are included as a designated rural area developments of 5 units or less would not have to provide a contribution for open space. Contributions could still be sought from developments in designated rural areas of between 6 and 10 units with payment on completion.~~

## **6. Recommendation**

**To note the changes to National Planning Policy Guidance, and the implication this has for the application of current adopted Planning Policy.**

To note that as a result of the change in the Guidance the District Council will no longer be seeking a S106 contribution in relation to public open space for 3 specific applications that had previously be considered by the Planning Committee (with resolutions to grant subject to s106 contributions). These applications were for 1 bungalow on land to the rear of 272 Coggeshall Road, Braintree, 2 dwellings on land adjacent to the Sugar Loaves, Sible Hedingham, 4 dwellings at the rear of The Kings Head, Bradford Street, Braintree.

## **Appendix 1 — Designated Rural Areas in the Braintree District**

Alphamstone,  
Ashen  
Bardfield Sailing,  
Belchamp Otten,  
Belchamp St Paul  
Belchamp Walter  
Birdbrook  
Black Notley  
Borley  
Bradwell  
Bulmer  
Bures Hamlet  
Castle Hedingham  
Colne Engaine,  
Cressing,  
Fairstead  
Faulkbourne,  
Feering,  
Finchingfield  
Foxearth  
Gestingthorpe  
Gosfield  
Great Bardfield  
Great Henny,  
Great Maplestead,  
Great Saling  
Great Yeldham  
Greenstead Green and Halstead Rural,  
Hellions Bumpstead  
Kelvedon  
Lamarsh  
Little Henny  
Little Maplestead  
Little Yeldham  
Middleton  
Ovington,  
Panfield  
Pebmarsh  
Pentlow  
Rayne,  
Ridgewell  
Rivenhall  
Shalford,  
Stambourne,  
Steeple Bumpstead  
Stisted  
Sturmer,  
Terling  
Tilbury Juxta Clare  
Toppesfield  
Twinstead,  
Wethersfield  
White Colne  
White Notley  
Wickham St Paul

<b>Monthly Report on Planning and Enforcement Appeal Decisions Received</b>		<b>Agenda No: 8</b>
<b>Corporate Priority:</b>		
<b>Report presented by:</b>		
<b>Report prepared by:</b> Matthew Wood, Town Planner		
<b>Background Papers:</b>		<b>Public Report</b>
Appeal decisions summary		
<b>Options:</b>		<b>Key Decision: No</b>
Information only		
<b>Executive Summary:</b>		
This is a regular report on planning and enforcement appeal decisions received with specific analysis of each appeal decision.		
<b>Decision:</b>		
That the report be noted.		
<b>Purpose of Decision:</b>		
To note a report on appeal decisions.		
<b>Corporate implications [should be explained in detail]</b>		
<b>Financial:</b>	N/A	
<b>Legal:</b>	N/A	
<b>Safeguarding:</b>	N/A	
<b>Equalities/Diversity:</b>	N/A	
<b>Customer Impact:</b>	N/A	
<b>Environment and Climate Change:</b>	N/A	
<b>Consultation/Community Engagement:</b>	N/A	
<b>Risks:</b>	N/A	
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## PLANNING & ENFORCEMENT APPEAL DECISIONS

This is the monthly report on appeals which contains a summary of the outcome of each appeal decision received during the month of February 2015.

The full text of decisions is available on the planning website under each respective planning application or, in respect of enforcement cases, a copy may be obtained from the Planning Enforcement Team (Ext 2529). **Commentary Text (Inspector's Conclusions) is given only** in respect of specific cases where the planning decision has been overturned.

1.	<b>Application Ref/Location</b>	BDC application ref: 14/01262/FUL – 70 Grooms Lane, Silver End, Witham, Essex CM8 3SQ
	<b>Proposal</b>	Retention of fence and works to front garden including raised decking
	<b>Council Decision</b>	Refused under Delegated Authority (31/10/2014) – CS 9, RLP 95
	<b>Appeal Decision</b>	<b>Dismissed</b>
	<b>Main Issue(s)</b>	1. The effect of the development on the character and appearance of the Silver End Conservation Area (the CA).
	<b>Inspector's Conclusion</b>	<p>The Inspector noted that the proposal has cumulatively and unquestionably resulted in a hardening in the appearance of No 70's front garden and the Inspector found that the introduction of the boundary fencing and timber decking to be particularly alien features that are serving to detract from the street scene's appearance. As a result the Inspector concluded that the appeal development has neither preserved nor enhanced the appearance of the CA.</p> <p>Whilst the Inspector found that the appeal development would be harmful to the appearance of the CA, the Inspector highlighted that the designated area is extensive and the appeal development would only affect a small part of it. The Inspector added that accordingly the harm caused to the CA's significance as a heritage asset would be 'less than substantial' as defined in the National Planning Policy Framework at paragraphs 132 to 134. However, the Inspector concluded that there would be no public benefit that would outweigh the harm to the CA such as to warrant allowing this appeal under the provisions of the Framework.</p> <p>For the reasons highlighted above the Inspector concluded that the appeal should be <b>dismissed</b>.</p>

<b>2.</b>	<b>Application Ref/Location</b>	BDC application ref: 14/01071/FUL – Site of Old Barn, Lady Knight's Yard, Pentlow Lane, Pentlow, Halstead, Essex CO10 7SP
	<b>Proposal</b>	Removal of all commercial storage/hardstanding from site and erection of dwelling house, rebuilding/restoration of outbuilding together with associated landscaping works, making use of existing access
	<b>Council Decision</b>	Refused by Committee (16/09/2014) – CS 5, RLP 2
	<b>Appeal Decision</b>	<b>Allowed</b>
	<b>Main Issue(s)</b>	1. Whether the proposal would be sustainable development.
	<b>Inspector's Conclusion</b>	<p>The Inspector highlighted that The Framework states that isolated new homes in the countryside should be avoided unless there are special circumstances and whilst not isolated in that the new addition would not stand alone, it would belong to a small group of buildings that are away from the nearest settlement, which is Cavendish. In this context the Inspector considered that the site occupies an isolated location.</p> <p>The Inspector highlighted that examples of special circumstances are set out in paragraph 55 of The Framework and that the appellants point out that this list is not necessarily exhaustive. The Inspector noted that such special circumstances include an example where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting. The Inspector considered that, in this case the proposal deals sensitively and appropriately with the conversion and re-use of the outbuilding to be retained and that this building, although in a state of disrepair, has a traditional style and form, and a quality that is worth protecting. The Inspector added that its poor condition contributes to the run down appearance of the site, which is accentuated by the open storage of building and other materials. In this respect the Inspector found that the condition of the building and the site adds little positively to the area's character and appearance.</p> <p>The Inspector found that the proposal would be well designed with the style of the new addition resembling that of a barn, which would be appropriate in its rural context. As a result the Inspector stated that they had little doubt that the setting of the site would be significantly enhanced as a result of the proposal. The Inspector added that the removal of the traffic associated with the commercial use of the site would also add to the visual character and rural qualities of the surrounding area, as it is experienced and appreciated by local residents.</p> <p>The Inspector highlighted that renovation works to the outbuilding would secure a listed wall that encloses the rear garden of the adjacent property, The Garden Cottage. The Inspector noted that whilst there may be other ways to achieve this outcome, the proposal would ensure that remedial work is</p>



	<p>undertaken to prevent any further deterioration in the condition of this designated heritage asset. The Inspector went on to find that by significantly improving the appearance of the site, the appeal scheme would also enhance the setting of The Garden Cottage and Pentlow Hall Farmhouse, both of which stand adjacent to the site and are listed buildings.</p> <p>In addition the Inspector added that by reusing land that is previously developed and not of high environmental value, the proposal would make effective use of land and in doing so, it would adhere to a core principle of the Framework, which is reiterated in paragraph 111 of that document. The Inspector added that the proposal would also widen the choice of high quality housing to which paragraph 9 of the Framework refers.</p> <p>Taking all of these considerations into account, The Inspector stated that they had little doubt that the proposal would qualify as a special circumstance to justify the introduction of a new home in an isolated countryside location, to which paragraph 55 of the Framework refers.</p> <p>The Inspector added that future occupiers would be dependent to a large extent on the use of the private car for most journeys to meet day-to-day needs. However, the Inspector stated that it is also relevant to take into account the number and type of vehicle movements associated with the lawful use of the site that would otherwise occur and by removing the use of the site for storage there would be a reduction in the associated traffic that could include private cars and larger delivery vans and lorries. The Inspector found that this would at least partly offset the extra vehicle movements generated by the appeal scheme.</p> <p>Another point highlighted by the Inspector is the fall-back position in that the proposal would remove an open storage use close to existing dwellings that could and, according to several local residents, does, generate noise and disturbance that is intrusive. The Inspector acknowledged that the Council accepts that there are no restrictions on the lawful use of the site and that problems to which local residents refer could therefore worsen if the lawful use of the site were to be intensified. In this respect the Inspector has found that by enhancing the living conditions of others, the proposal would be sustainable.</p> <p>The Inspector stated that the new dwelling would be designed to achieve Level 4 of the Code for Sustainable Homes and thus would achieve a good level of efficiency with regard to energy and water and would also add to the local housing stock. These matters would provide some social and environmental benefits, to which the Inspector has attached some weight.</p> <p>The Inspector went on to state that, in their experience it is rare that a new development would be in accordance with each and every aspect of sustainable development especially in rural</p>
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		<p>areas. The restricted access to some local services and facilities and the reliance on the use of the car weigh against the appeal scheme. However, the Inspector stated that the development proposed has strong credentials in many other aspects within the definition of sustainable development and it would qualify as a special circumstance for development in an isolated countryside location. The Inspector added that the proposal would also protect if not enhance the landscape character and amenity of the area.</p> <p>Overall, the Inspector concluded that the planning balance is tipped in favour of the new development and that the proposal can reasonably be regarded as sustainable.</p> <p>For the reasons highlighted above the Inspector concluded that the appeal should be <b>allowed</b>.</p>
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3.	<b>Application Ref/Location</b>	BDC application ref: 14/00298/FUL – Land rear of 1 Recreation Road, Sible Hedingham, Halstead, Essex, CO9 3JG
	<b>Proposal</b>	Single storey dwelling to rear of 1 Recreation Road including car parking
	<b>Council Decision</b>	Refused under Delegated Authority (09/07/2014) – RLP 3, RLP 9, RLP 90
	<b>Appeal Decision</b>	<b>Dismissed</b>
	<b>Main Issue(s)</b>	<ol style="list-style-type: none"> <li>1. The character and appearance of the area;</li> <li>2. The living conditions of the occupiers of the proposed dwelling, with particular regard to outlook;</li> <li>3. The living conditions of the occupiers of adjoining properties, with particular regard to privacy; and</li> <li>4. Highway safety, with particular regard to surfacing of the access to the development and the availability of on-site parking.</li> </ol>
	<b>Inspector's Conclusion</b>	<p><u>The character and appearance of the area</u></p> <p>The Inspector found that the bungalow would have a cramped appearance, which is indicative of this proposal amounting to an over development of the site, and its over intensive form would in part be the product of it being backland development. The Inspector referred to other examples of backland development raised by the appellant nearby but found that they were not comparable. The Inspector therefore found that the appeal development would be harmful to the character and appearance of the area.</p> <p><u>The living conditions of the occupiers of the proposed dwelling, with particular regard to outlook</u></p> <p>The Inspector noted that the proposed development would have a compact form and taking into account the limited space around the bungalow and the proposed window and garden arrangements, the Inspector found that the occupiers of this development would have a limited and thus unacceptable outlook with this level of outlook harmful to the living conditions</p>

		<p>for the occupiers of the development. This is an issue which the Inspector stated should not be treated lightly, given the dwelling's intended occupation by retired persons and the potential for such occupiers to spend quite a lot of time in any one day inside the dwelling or within its garden area.</p> <p><u>The living conditions of the occupiers of adjoining properties, with particular regard to privacy</u></p> <p>The Inspector highlighted that the appeal development would introduce some additional activity onto the limb of Hills Road that passes in front of Nos 1 and 2 and to the side of The Bungalow. However, given the scale and intensity of that proposed the Inspector found that the comings and goings that it would generate in any given day would be limited and not be at a level such as to cause any unreasonable disturbance or loss of privacy for the occupiers of the adjoining properties.</p> <p><u>Highway safety, with particular regard to surfacing of the access to the development and the availability of on-site parking</u></p> <p>The Inspector found that the existing access, given the level of vehicular activity that would be generated, would be suitable without there being prejudice to highway safety. With respect to on-site parking provision, the Inspector noted that the highway authority raised no objection to the proposed arrangements and whilst the parking spaces would be sited immediately adjacent to one of the dwelling's elevations the Inspector was not persuaded that their layout would be impractical.</p> <p><u>Conclusion</u></p> <p>The Inspector found that there would be no unacceptable harm to the living conditions of the occupiers of adjoining dwellings or highway safety in the area. However, the Inspector concluded that those matters do not outweigh such concerns regarding the harmful effects of the development on the character and appearance of the area and the living conditions of the occupiers of the proposed dwelling.</p> <p>For the reasons highlighted above the Inspector concluded that the appeal should be <b>dismissed</b>.</p>
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4.	<b>Application Ref/Location</b>	BDC application ref: 14/00594/FUL – Silverdene, Lanham Green Road, Cressing, Braintree, Essex, CM77 8DR
	<b>Proposal</b>	Erection of garage
	<b>Council Decision</b>	Refused under Delegated Authority (09/07/2014) – RLP 3, RLP 17, RLP 90
	<b>Appeal Decision</b>	<b>Dismissed</b>
	<b>Main Issue(s)</b>	1. The effect of the proposed garage on the character and appearance of the area.

	<b>Inspector's Conclusion</b>	<p>The Inspector concluded that, in this context the introduction of a double garage with a pyramidal roof in the front garden of <i>Silverdene</i> would be an alien and incongruous addition to the street scene. The Inspector added that although the building line along the street is not of uniform depth, there are no substantial structures or buildings in the other front gardens of this group of properties. As a result the Inspector found that the proposed garage would be both prominent and intrusive when viewed alongside the open front gardens of the surrounding dwellings which would be harmful to the character and appearance of the area.</p> <p>For the reasons highlighted above the Inspector concluded that the appeal should be <b>dismissed</b>.</p>
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5.	<b>Application Ref/Location</b>	BDC application ref: 14/00916/FUL – The Stables, Newton Brickworks Ltd, Bakers Lane, Black Notley, Braintree, Essex, CM77 8QS
	<b>Proposal</b>	Change of use of buildings and associated land from Class B1 general office use to Class C3 dwelling house
	<b>Council Decision</b>	Refused under Delegated Authority (28/08/2014) – CS 10, CS 11, RLP 38
	<b>Appeal Decision</b>	<b>Dismissed</b>
	<b>Main Issue(s)</b>	<ol style="list-style-type: none"> <li>Whether the conversion is appropriate given the location of the building in the countryside; and</li> <li>Whether the proposal would make adequate provision for local open space, the need for which would arise from the development.</li> </ol>
	<b>Inspector's Conclusion</b>	<p><u>Whether the conversion is appropriate given the location of the building in the countryside</u></p> <p>The Inspector noted that the appellant contends that the appeal site should be assessed in respect of its relationship to the urban area of Braintree, particularly as the Core Strategy has allocated a substantial area of land for employment use to the west of the A131. However, the Inspector found that the allocation does not suggest that the commercial use of the appeal site is no longer viable nor does it justify the encroachment of residential uses to the east of London Road. The Inspector concluded that this held little weight in the determination of the appeal.</p> <p>The Inspector highlighted that whilst the proposed dwelling would not be in an isolated rural location, there was no evidence to show how the conversion would enhance the vitality of a rural community or meet any of the criteria set out in paragraph 55 of the Framework. The Inspector found that the special circumstances that would justify setting aside the general presumption against new dwellings in the countryside had therefore not been met.</p> <p>The Inspector noted that the existing building is currently being</p>

	<p>used as an office and no evidence was presented to suggest that this use is likely to cease in the near future. The Inspector also highlighted that there was not any substantiated evidence to demonstrate that efforts have been made to market the building to secure an alternative owner or tenant. As a result the Inspector found that there was therefore nothing to persuade them that the commercial use could not be continued and therefore the change of use to a dwelling would be in conflict with this requirement of saved Policy RLP 38.</p> <p>The Inspector noted that the layout of the site means that the building is squeezed against two of the site's rear boundaries and there is a large area of land to the front divided by the driveway. The Inspector stated that this would appear to be a contrived arrangement resulting in an awkward relationship between the dwelling and its plot, particularly given the modest proportions of the existing building. The Inspector therefore also found that the dwelling would be poorly sited and out of proportion with its plot contrary to the requirements of criterion 3 under saved policy RLP 38.</p> <p>As a result of the above the Inspector concluded that the proposed conversion would be an unsustainable form of development in view of the location of the building in the countryside.</p> <p><u>Whether the proposal would make adequate provision for local open space, the need for which would arise from the development</u></p> <p>The Inspector highlighted that within its appeal statement the Council provided specific evidence about how the contribution could be used to deliver improvements that are part of an action plan for open spaces in the area around the appeal site. As a result the Inspector found that the change of use would bring about the need for investment in local open space provision and in the absence of an appropriate planning obligation to secure such a contribution the proposal would conflict with the requirements of Policies CS 10 and CS 11 of the Core Strategy.</p> <p>For the reasons highlighted above the Inspector concluded that the appeal should be <b>dismissed</b>.</p>
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