

# **PLANNING COMMITTEE AGENDA**

**Tuesday, 27 February 2018 at 07:15 PM**

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

**THIS MEETING IS OPEN TO THE PUBLIC**  
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**Members of the Planning Committee are requested to attend this meeting to transact the business set out in the Agenda.**

**Membership:-**

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

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

A WRIGHT  
Chief Executive

## **INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS**

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

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

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

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

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

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

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

**Documents:** There is limited availability of printed Agendas at the meeting. Agendas, Reports and Minutes can be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk)

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

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

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

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

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

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

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

**3 Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 13th February 2018 (copy to follow).

**4 Public Question Time**

(See paragraph above)

**5 Planning Applications**

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

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

**PART A**

Planning Applications:-

- |           |   |                |
|-----------|---|----------------|
| <b>5a</b> | <b>Application No. 16 02144 OUT - Land adjacent to Braintree Road, CRESSING</b> | <b>5 - 69</b>  |
| <b>5b</b> | <b>Application No. 17 01863 OUT - Land at Park Lane, TOPPESFIELD</b>            | <b>70 - 85</b> |

**PART B**

Minor Planning Applications:-

- |           |  |                |
|-----------|--|----------------|
| <b>5c</b> | <b>Application No. 16 00458 ADV - The Cherry Tree, Cressing Road, WITHAM</b> | <b>86 - 92</b> |
| <b>5d</b> | <b>Application No. 16 00460 FUL - The Cherry Tree, Cressing Road, WITHAM</b> | <b>93 - 98</b> |

<b>5e</b>	<b>Application No. 17 01717 FUL - 9 Oak Fall, WITHAM</b>	<b>99 - 105</b>
<b>5f</b>	<b>Application No. 17 01878 FUL - The Barn, The Street, ASHEN</b>	<b>106 - 112</b>
<b>5g</b>	<b>Application No. 17 01879 LBC - The Barn, The Street, ASHEN</b>	<b>113 - 118</b>
<b>5h</b>	<b>Application No. 17 02105 FUL - 3E Moss Road, WITHAM</b>	<b>119 - 126</b>
<b>6</b>	<b>Variation to Section 106 Agreement - Application No. 12 01071 OUT - Land at Maltings Lane, WITHAM</b>	<b>127 - 131</b>

**7 Urgent Business - Public Session**

To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

**8 Exclusion of the Public and Press**

To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.

*At the time of compiling this Agenda there were none.*

**PRIVATE SESSION**

**Page**

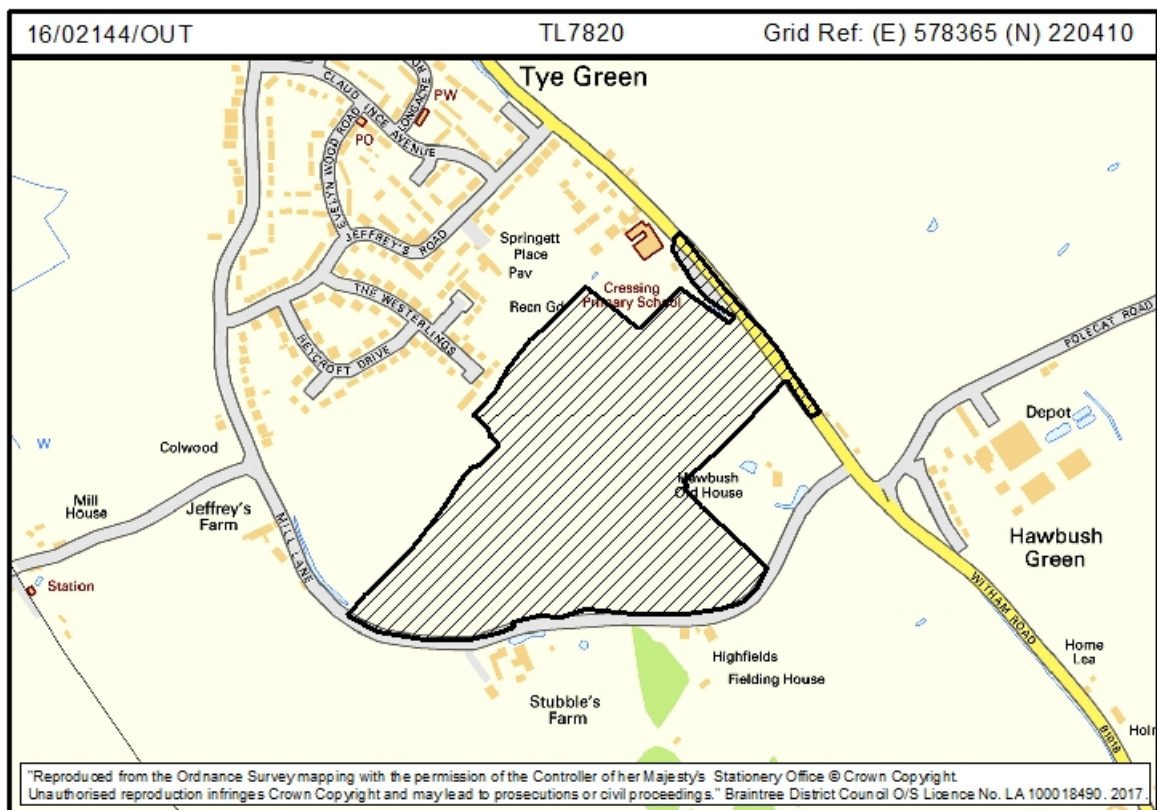
**9 Urgent Business - Private Session**

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

PART A

APPLICATION NO: 16/02144/OUT DATE: 20.12.16  
 VALID:  
 APPLICANT: Countryside Properties PLC  
 Countryside House  
 AGENT: Strutt & Parker LLP  
 Mr Sam Hollingworth, Coval Hall, Rainsford Road,  
 Chelmsford, Essex, CM1 2QF  
 DESCRIPTION: Development of up to 225 residential dwellings; associated  
 access (including provision of a new roundabout on  
 Braintree Road); public open space; play space; pedestrian  
 and cycle links; landscaping; and provision of land for  
 expansion of Cressing Primary School  
 LOCATION: Land Adjacent To, Braintree Road, Cressing, Essex

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



## SITE HISTORY

16/00004/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Request - Residential development of up to 300 dwellings with associated access, infrastructure and open space	Screening/ Scoping Opinion Adopted	15.08.16
87/02202/OUT	Residential development	Refused	25.02.88

## POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5<sup>th</sup> June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16<sup>th</sup> June to 28<sup>th</sup> July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9<sup>th</sup> October 2017.

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

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

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

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

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

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was

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

### National Planning Guidance

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

### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP22	Accessible Housing and Lifetime Housing
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP52	Public Transport
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP55	Travel Plans
RLP56	Vehicle Parking
RLP63	Air Quality
RLP64	Contaminated Land
RLP65	External Lighting
RLP67	Flood Risk in Undeveloped Areas
RLP69	Sustainable Urban Drainage
RLP70	Water Efficiency
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP74	Provision of Space for Recycling
RLP77	Energy Efficiency
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility
RLP93	Public Realm
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings

RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring

#### Braintree District Local Development Framework Core Strategy 2011

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

#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
LPP17	Housing Provision and Delivery
LPP33	Affordable Housing
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP49	Broadband
LPP50	Built and Historic Environment
LPP52	Health and Wellbeing Impact Assessment
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings
LPP63	Archaeological Evaluation, Excavation and Recording
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP75	Energy Efficiency
LPP77	Renewable Energy within New Developments
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting

#### Supplementary Planning Guidance

Affordable Housing Supplementary Planning Document (2006)  
 Essex Design Guide for Mixed Use and Residential Areas (2005)  
 External Lighting Supplementary Document  
 Open Space Supplementary Planning Document



Open Spaces Action Plan  
Parking Standards – Design and Good Practice (September 2009)

### Other Guidance

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

### Cressing Neighbourhood Plan

On 9th August 2013, Braintree District Council received an application from Cressing Parish Council to designate a neighbourhood area to cover the whole of Cressing Parish, in order that work to develop a Neighbourhood Plan could be commenced.

At the Local Development Framework sub-committee meeting on 6th November, the Cressing Neighbourhood Plan Area was approved and formally designated in line with Section 61G of the Town and Country Planning Act 1990 (inserted by the Localism Act 2011).

However, the Neighbourhood Plan is at an early stage in its preparation, it has not been published and can therefore be given only very limited weight in the consideration of the current planning application, which must be assessed against the presumption in favour of sustainable development as, set out at paragraph 14 of the NPPF. Objectors to the development have requested that the application is refused, or not determined, until the Neighbourhood Plan is produced. Officers do not consider that the application can be refused for being premature and if the application is not determined the applicant could appeal on grounds of non-determination.

### INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

Cressing Parish Council has also raised objection to the proposals and objections have been received from local residents, contrary to the officer recommendation.

### NOTATION

The application site lies outside, but adjacent to the south eastern edge of the Cressing (Tye Green) Village Envelope as designated in the Braintree District Local Plan Review (2005) (BDLPR). There are no other specific designations on the site in the adopted Development Plan, although the emerging Publication Draft Local Plan (DLP) proposes that Mill Lane is designated as a Protected Lane, pursuant to its draft Policy LPP46.

## SITE DESCRIPTION

The application site currently comprises 13.6 hectares of predominantly arable agricultural land located to the southern end of Cressing (Tye Green). With the exception of hedgerows and trees along its boundaries, the land is relatively featureless.

It is however located adjacent to the south western side of the B1018 Braintree Road forming a gateway into the village just beyond its junction with Mill Lane when travelling in a north westerly direction. Located immediately to the west of this junction is a grade II listed building, Hawbush Old House, which is a privately occupied dwellinghouse.

On the opposite side of the Braintree Road frontage is Cressing Primary School, which along with its associated playing field, shares its south eastern and south western boundaries with the site. Beyond this, the north western site boundary abuts the village's recreation ground, which also accommodates the Cressing Sports & Social Club, as well as a children's play area.

Existing residential development located within The Westerings backs onto the remainder of the site's north western boundary, along with the residential site for 118 dwellings fronting Mill Lane, separated by indigenous field hedgerows. The adjacent residential development site was granted planning permission pursuant to reference 16/00397/OUT, and a Reserved Matters application was approved on 10 January 2018, 17/01671/REM refers.

Mill Lane runs adjacent to the site's southern boundary and runs in a loop around Tye Green connecting to Braintree Road at both ends, as well as Bulford Mill Lane which leads to Cressing Station and the village of Black Notley beyond. The Mill Lane frontage is marked by an established, partly continuous, indigenous hedgerow and a ditch that separates the site from the carriageway.

In addition to the aforementioned Hawbush Old House, there are two other grade II listed buildings located along and on the opposite side of Mill Lane, including a listed barn at Stubble's Farm and Jeffrey's Farmhouse due north west of the site's western-most tip.

## PROPOSAL

This report relates to an outline planning application for the development of up to 225 residential dwellings; associated access (including provision of a new roundabout on Braintree Road); public open space; play space; pedestrian and cycle links; landscaping; and provision of land for expansion of Cressing Primary School.

With the exception of the formation of the access into the site, details of the appearance, landscaping, layout and scale are all reserved matters which means that approval is not sought for these at this stage and details are not

required. If the outline application were to be granted the applicant would need to submit reserved matters applications to the Local Planning Authority, in addition to discharging planning conditions before development could commence.

It is proposed that the scheme would be accessed via a new roundabout on the B1018 Braintree Road; this would involve a slight realignment of the existing carriageway, as identified on the submitted plan entitled 'Tye Green Development Access Roundabout'. A traffic island is proposed adjacent to the Primary School's drop off/pick up layby entrance on Braintree Road, to prevent right turn manoeuvres into it. The proposed access arrangements have been subject to a Stage 1 Safety Road Safety Audit.

Since the application was first made, a number of changes have been made to the proposal following the first round of public consultation and discussions with Officers and consultees. Key concerns raised included: the quantum of development proposed, the impact on the character of the village; the impact on landscape; and the impact on setting of heritage assets.

In addition to a reduction in the number of dwellings up to which outline planning permission is sought (from 300 to 225), a secondary vehicular access from/to the school layby has been omitted, in lieu of a footpath/cycleway, following the advice of officers.

Whilst layout is a reserved matter, it is envisaged by the applicant that from the roundabout entrance, a broad tree-lined avenue would lead to a central green, off which a network of streets and pavements would connect throughout the site, serving the southern edge of the development and walking routes to the recreation ground, the adjacent scheme to the west and on to Cressing Station. Roads, junctions, and turning heads within the scheme would be designed in accordance with the Essex Design Guide.

Other amendments to the proposal since its original submission in December 2016 include:

- A reduction in the area proposed for residential development by 2.34 ha;
- An increased green buffer between the proposed developable area and Mill Lane, with a minimum depth of 45m;
- A green buffer proposed between the developable area and Braintree Road;
- An increased green buffer on the eastern part of the site adjacent to Hawbush Old House (35-75m in depth, providing an offset of between 115-140m between the developable area and the Grade II listed building);
- The provision of an additional parameter plan restricting building heights of the proposed development, in particular along sensitive edges.

With a total site area of 13.6 ha, the gross density of the revised proposed development is 16.5 dwellings per hectare, which is lower than the 25 dwellings per hectare of the adjacent scheme granted outline planning permission. The applicant states that this low density reflects the landscape-led approach to the proposed development of the site and the provision of substantial areas of open space, including the provision of the aforementioned green buffers. 5.07 Hectares (Ha) of Public Open Space (POS) would be provided in total, which would include equipped play areas, to be agreed at the reserved matters stage/s.

The precise number of dwellings, layout and design would be determined through a subsequent Reserved Matters planning application, however it is envisaged that the development would comprise a mix of house types, including one, two, three, four and five bedroom homes. Up to 40% of the dwellings provided would be delivered as affordable housing.

As set out in the Design and Access Statement, it is intended the development would be of a style based on the rural and suburban vernacular, and would comprise a mixture of two and two and a half storey houses. Two storey houses are shown to be provided to the eastern edge of the proposed built development (land closest to Hawbush Old House), southern edge adjacent to the proposed Mill Lane buffer, and along the north western/western edge where adjacent to the school, recreation ground and The Westerings.

0.415 Ha of land is proposed to be allocated to the rear of the existing school playing field to enable the school's expansion to 1.5 forms of entry (FE) and the provision of this land would be secured through a S106 agreement. A further 0.385 Ha beyond (to the south west of) that land is shown as potentially being utilised for longer term expansion of the school to 2FE, but would require Essex County Council (ECC) to purchase the land at a market price associated with educational use. Alternatively if not required, this latter parcel of land could be utilised for future residential land by either the applicant or their successors in title.

The following documents have been submitted as forming part of the planning application:

- Location Plan
- Illustrative Master Plan
- Detailed access drawing
- Parameter Plan 1: Land Use
- Parameter Plan 2: Building Heights
- Parameter Plan 3: Access & Movement
- Parameter Plan 4: Landscape
- Design and Access Statement and Addendum, including Lighting Statement and Illustrative Layout
- Planning Statement and Addendum incorporating Affordable Housing Statement, Planning Obligations Statement, Economic Benefits Infographic, Noise and Air Quality Assessment

- Five-Year Housing Land Supply Review
- Transport Assessment and Draft Travel Plan
- Heritage Statement and Addendum
- Archaeological Desk-Based Assessment
- Ecological Assessment
- Arboricultural Constraints Report (Phase II)
- Landscape and Visual Impact Assessment
- Agricultural Land Classification and Soil Resources Report
- Flood Risk Assessment and Drainage Strategy
- Phase 1 Land Contamination Assessment
- Utilities and Infrastructure Report
- Statement of Community Involvement

## CONSULTATIONS

### Anglian Water

No objection. The foul drainage from this development is in the catchment of White Notley Water Recycling Centre that will have available capacity for these flows. However, they state that the development would lead to an unacceptable risk of flooding downstream as the network would have insufficient capacity to carry the flows, therefore a drainage strategy would need to be prepared in consultation with them to determine mitigation measures. They request that a condition be imposed to this effect.

### BDC Environmental Services

No objection subject to recommending the imposition of conditions covering the following:

- No burning of refuse, waste materials or vegetation to be undertaken on the application site in connection with the site clearance or construction of the development;
- Submission of a dust and mud control management scheme;
- The restriction of the hours within which site clearance, demolition or construction work take place on the site, including starting of machinery and delivery of materials;
- The applicant to provide details of the window/ventilation systems and any other noise mitigation to ensure that the relevant internal and external noise levels are achieved, pursuant to BS8233:2014 Guidance on Sound Insulation and Noise reduction for Buildings; and
- A scheme of external lighting to be approved prior to any development taking place.

In addition they state that the contaminated land report recommends further intrusive investigation, which should also include assessment of any pesticides on the site and therefore an appropriate condition is also recommended.

### BDC Housing Research and Development

No objection. Based on a proposal for a reduced number of residential homes (up to 225 units) policy CS2 of adopted Core Strategy requires 40% of the dwellings to be for affordable housing which would equate up to 90 homes. Although it is acknowledged that details concerning the mix of affordable dwellings would be subject to a reserved matters application, the amended indicative affordable housing mix below would be considered appropriate to match evidence of housing need.

- 15 x 1 bedroom 2 person flats
- 21 x 2 bedroom 4 person flats
- 40 x 2 bedroom 4 person houses
- 8 x 3 bedroom 5 person houses
- 4 x 3 bedroom 6 person houses
- 2 x 3 bedroom 5 person bungalows (built to Part M Cat 2 of Building Regs)

Other additional factors concerning affordable housing that should be considered are as follows:

- Requirement for affordable homes to be clustered in a minimum of 3 areas of the site;
- Affordable dwellings should be deliverable without reliance on public subsidy;
- Affordable homes should be built to standards acceptable to the Homes and Communities Agency at the point of construction;
- All affordable dwellings that are accessed at ground floor level should be compliant with Building Regulations Part M Cat 2;
- Tenure mix should be 70/30 affordable rent over shared ownership.

#### BDC Landscape Consultant

No objection. The Council commissioned specialist advice from external landscape consultants.

They have commented that it is noted from the Landscape Character Analysis (LCA) produced for the Council by the Landscape Partnership in 2015 that this parcel of land has a medium capacity for development and the comments have been made in this context.

The land lies on the higher plateau along with Tye Green, but views into the site are fairly limited and the public footpath provision in the area is restricted to one running along the settlement edge.

The arboricultural survey produced by Hallwood Associates (ref. 1160\_04\_APH) reveals that the majority of the boundary vegetation is fairly unremarkable in its component trees, but collectively has an established capacity for screening and adding amenity to the site. The better quality trees are in the area of land facing onto the Primary School and are retained in school ownership. The retention of these trees as boundary features and for

their acknowledged contribution towards the screening of the site is considered to be a prerequisite for the development and an appropriate Tree Protection Plan would need to be approved and in place before development starts on site.

Visual and spatial separation from the listed property of Hawbush Old House has been given some priority in the illustrative masterplan and the initial concerns from Landscape Services (subject to the submission of Layout and Landscaping Reserved Matters details) are:

- The relationship between existing boundary trees and private garden enclosures where the boundary trees are not within an area of POS; and
- The appropriate provision (infrastructure) arrangements for trees shown within or close to the public highway i.e. whether these are part of the adoptable highway.

The buffer zone along the south east boundary should also contain belts of new tree planting to reinforce the rather poor quality of the existing boundary feature which in common with most of the local hedgerows contains a large proportion of dying and dead elm. Augmenting the existing hedgerow by additional planting is not likely to establish very successfully so the opportunity should be taken to use the buffer zone for significant belts of new tree and under-storey planting to improve the quality of the screening into the site, improving the local amenity and increasing the value of the site for wildlife.

This approach would support that identified in the Landscape Character Assessment (LCA) produced in 2015 for the Council which noted that the existing vegetation along Mill Lane should be preserved and enhanced in order to reinforce the distinction between Tye Green and the river valley landscape beyond.

#### BDC Operations

No objection. In respect of waste and recycling they advise that a bring bank site location be provided close to the main road; that parking restrictions are put in place opposite road entrances plus at least 5 metres into each access road; and £50 per property is paid towards the cost of bins provided by BDC.

#### Cressing Parish Council

Objection. Would like to refer to their original objection letter dated 25<sup>th</sup> January 2017, the contents of which still stands.

Following lengthy discussion at their Parish Council meeting they wish to reiterate their objection for the following reasons:

1. The proposed development site is outside of the development boundary/village envelope and is in contravention of Policy RLP2 and Policy LPP1 (Publication Draft Local Plan).

2. In terms of sustainability; Cressing is listed as a third tier village in the Publication Draft Local Plan. These are the smallest villages in the District and lack most of the facilities required to meet day to day needs. They often have very poor public transport links and travel by private vehicle is usually required. When considering the tests of sustainable development, these will not normally be met by development within a third tier village. Therefore, this site in Cressing is not sustainable.
3. This site is not allocated in the Publication Draft Local Plan.
4. They are concerned about the adverse impact on the following listed buildings:
  - a) Hawbush Old House – Grade II Listed
  - b) Jeffrey's Farmhouse – Grade II Listed
  - c) Barn 20 Metres East of Stubble's Farmhouse – Grade II Listed
  - d) Stubble's Farm – a non-designated heritage asset
5. This development would adversely affect the following Protected Lanes:
  - a) Mill Lane
  - b) Bulford Mill Lane
6. The infrastructure within the village and surrounding roads is inadequate to support the increase in traffic that this development would undoubtedly bring and lead to more traffic travelling through surrounding villages and hamlets such as Cressing Village.
7. The proposal to have a roundabout on the B1018 would lead to significant tailbacks of traffic particularly at peak times, which could back up as far as the junction of Mill Lane and Polecat Road with the B1018 for vehicles travelling towards Braintree. The roundabout would also slow down emergency services travelling between Braintree and Witham, which is the main route between the two towns.
8. They are concerned about the possible expansion of Cressing Primary School to become a two form entry. The school originally had 140 pupils on roll. This was increased by 70 places this September to make 210 places. It is now a single form entry. If this was to increase to two form entry, it would mean a total of 420 pupils which would irrevocably change the nature of their small village primary school.
9. Further to the letter from NHS England dated 11.10.2017, they are concerned that the GP practice within the vicinity of the application site does not have capacity for the additional growth resulting from this development. It is noted that 'the Local Planning Authority may wish to review the development's sustainability if such impacts are not satisfactorily mitigated.' Cressing Parish Council would like to add that, whilst Silver End Surgery specifically is considered in the NHS England response, many Cressing residents choose GP surgeries in Braintree such as Mount Chambers and Blyth's Meadow.
10. This is a Greenfield agricultural site.
11. With the likely development of Cress 192 adjacent to this site, there can be no basis to suggest that the village infrastructure is capable of supporting any further development.



Cressing Parish Council is also concerned about the way in which the applicants have bypassed both the Local Development Plan process and Neighbourhood Plan process which is actively proceeding. The Parish Council are in the process of producing a Neighbourhood Plan and they state that a development of this nature would be very disheartening for the group of volunteers who have already put a great deal of time and effort into the process. As quoted from paragraph 17 of the NPPF, one of the 12 Core Planning Principles is that planning should “be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the local area.”

Should permission for this development be given, the Parish Council would be looking for a major contribution towards the infrastructure, community facilities and the open spaces in the parish; in particular the desire to have a new village hall for the Parish which was originally costed at £130,000. They also wish BDC to note that a Local Highways Panel application has been submitted for an On Demand Light Controlled Crossing to link Tye Green and Cressing Village.

In their original response to the Council (when the proposal was for up to 300 dwellings) they stated that they objected to the application, first of all due to the fact that BDC had not included this plot of land in the draft Local Development Plan which indicates to them that it is deemed unsuitable for development.

As previously notified to BDC in their comments on Site Allocations dated 2nd March 2016, the Parish Council deems this site (CRESS193) to be unsuitable for a number of reasons. These, as taken from their original letter are summarised thus:

- Access is a major concern;
- Infrastructure in terms of traffic;
- Inadequate train station;
- Inadequate roads;
- Lack of facilities such as and not limited to school, GP and other facilities usually expected of a proposed development of this size;
- Sewerage and drainage which are already problematic in that area;
- It abuts on to the Brain Valley Special Landscape area – this development would detract from the surrounding landscape;
- This development would be a grossly disproportionate increase compared to the current size of Tye Green and its surroundings;
- Site is a historical asset - close proximity to Hawbush Old House (Grade II Listed), Stubble's Farm, which is believed to be the site of the stables of Cressing Temple, lies on the opposite side of the road, along with its Grade II listed barn;
- Site is agricultural land which is currently farmed and contributes to the village
- Pollution to Tye Green and the surrounding hamlets such as Hawbush Green would be a concern; and

- It would significantly change the character of the village.

#### Essex County Council (ECC) Education

No objection. From the information received, the application has been assessed on the basis of 225 houses, assuming that all of these units have 2 bedrooms or more. Such a development can be expected to generate the need for 20.2 early years & childcare (EY&C), 67.5 primary school, and 45 secondary school places.

In terms of the 0.8 hectares of land being offered for expansion at Cressing Primary School the Planning Statement (Appendix A pt1) states that, whilst 0.415ha would be gifted, the rest must be purchased (if required) at educational land value. Since the land in question does not currently have residential permission or an allocation as such in Braintree's Local Plan, there can be no expectation of Essex County Council (ECC) purchasing land for the School's use at this cost. The additional land would be necessary to facilitate the School's expansion by a full form of entry and the S106 agreement must thereby offer the land at a cost that could facilitate this. It is accepted that the development by itself does not generate the full need for such expansion. It is thereby reasonable that the additional area is purchased at its intended use price i.e. D1 value. The framework plan, showing the land as for either residential or education use, is in our view, premature. Residential use should be considered through a separate planning application, only in the event ECC choose not to exercise their D1 use purchase option.

They have received a completed Site Suitability Checklist, and on the basis of the information provided, the land appears to be suitable for education use. The Checklist would need to be appended to any s106 agreement with a clause requiring the developer to pay for any additional works necessary as a result of incorrect information being provided.

In regard of EY&C provision, although it is a fine balance, it is not envisaged at this time that a new setting solely to serve this development would be viable and, therefore, an expansion project or new provision that serves a number of new sites would need to be looked at.

Based on 225 dwellings the contributions due would be: EY&C £294,010 and Primary would be £859,545, index linked to April 2016.

Due to the CIL pooling restriction a secondary school places contribution is not being sought, but there would be a requirement to provide secondary school transport, from the development, as there is no safe walking route to the nearest secondary school. ECC are thereby obliged to provide school transport at a cost of £4.44 per pupil per day, for 190 days (an academic year), for a period of 5 years. Based on 60 secondary pupils, the school transport contribution would be £189,810 index linked to April 2016.

#### ECC Flood and Water Management

No objection. Further to the receipt of additional information and having reviewed the Flood Risk Assessment and other associated documents which accompanied the planning application they raise no objection to the granting of planning permission subject to the imposition of a number of recommended conditions and informatives.

### ECC Highways

No objection. With the National Planning Policy Framework in mind, particularly paragraph 32, the Highway Authority has reviewed the planning application and supporting transport assessment to ensure the proposal site can be accessed safely; and any impacts are adequately mitigated in terms of highway safety and capacity; and to ensure as far as possible, the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking. The Highway Authority has visited the proposal site.

Having reviewed the additional information submitted, they confirm that there is no need to amend their recommendation dated 29<sup>th</sup> March 2017, apart from in respect of the requirement for a Residential Travel Plan. Because the number of proposed dwellings has been reduced (300 down to 225), in accordance with current guidance, the applicant should provide Residential Travel Information Packs rather than a Residential Travel Plan and monitoring fee.

They recommend the following be secured, by way of the imposition of conditions and/or planning obligations:

- Construction traffic management plan, to include, but not be limited to details of vehicle/wheel cleaning facilities;
- A roundabout in Braintree Road to provide access to the proposal site as shown in principle on the planning application drawings;
- The provision of two new bus stops on Braintree Road;
- Improvements to Bulford Mill Lane to aid pedestrian movement between the proposal site and Cressing Railway Station;
- A £15,000 contribution (index linked) towards additional, covered, secure cycle parking at Cressing Railway Station;
- Cycle parking at Tye Green Post Office;
- Residential Travel Information Packs;
- All dwellings to be provided with an electric vehicle charging point; and
- The priority junction off the lay-by adjacent Braintree Road to be omitted from the development.

## ECC Historic Buildings Consultant

The site is bordered by the B1018 to the east and Mill Lane to the south and west. It links to the existing modern housing estate in Tye Green to the north, although there would appear to be little in the way of pedestrian or vehicular access from one to the other. Immediately to the south of the site is Hawbush Old House, an architecturally interesting house, formed of a surviving fourteenth century cross-wing and two later phases of sixteenth century construction. The house was restored in the 1960s and later extended. The building is listed grade II, and occupies a visually prominent location, due to the open nature of the land around it and its proximity to the B1018.

To the west of the application site is Stubbles Farm, which is located directly across the road from the development site, and is therefore in closest proximity to the development. Whilst the farmhouse itself does not have statutory protection, the adjacent barn is listed grade II in its own right. The building was constructed around the turn of the eighteenth and nineteenth century and is of timber frame and weatherboard construction. The farmhouse does however appear on the 1st edition OS map, and whilst not having statutory protection may be considered to be of sufficient social and historic significance to merit being classed as a non-designated heritage asset. Further along Mill Lane, Jeffreys Farm is a grade II Listed Building which is timber framed and plastered, and appears to have undergone a recent scheme of restoration. The building was constructed in the seventeenth century, with later eighteenth and nineteenth century extensions.

In their previous response to the proposal of up to 300 dwellings, they were particularly concerned about the impact of the development on the significance of Hawbush Old House, which is currently experienced in a relatively open and undeveloped landscape which is read as being part of Hawbush Green rather than Tye Green. They highlighted the significance of this relationship to Hawbush Green, as well as its relationship to the staggered cluster of farm complexes along Mill Lane. Their concerns were particularly focussed on:

- 1) The visual interrelationship which would be created between the proposed development and Hawbush Old House, particularly given the visual permeability of the current screening hedge; and
- 2) The proximity of the new housing to the listed building, creating a sense that it would be experienced as part of a larger modern suburban development. This was considered to be particularly evident in the key views looking north up the B1018 towards the Listed Building, in which the new housing would form the immediate backdrop to the Listed Building.

They also raised concerns as to the impact on the significance of the farmhouse and barn at Stubbles Farm. These concerns particularly related to:

1) The severing of long views of the farm complex across the site, which allow an understanding of its position in the landscape and its relationship with other farm complexes on Mill Lane - important to establishing its historic significance; and

2) The altering of how Mill Lane itself is experienced, and the altering thereby of the environment in which this farm complex, and to a lesser extent the complex at Jeffrey's Farm, are experienced.

They therefore were not able to support the application, which they identified would result in harm to the significance of the two Listed Buildings, as well as a non-designated heritage asset.

The applicant has revised their proposal and masterplan, to reduce the number of houses from 300 to 225 and to respond to previous objections. Most significantly they have increased the open space on the boundary with Hawbush Old House, along Mill Lane and along Braintree Road. They have also sought to amend the site plan to place the attenuation basin and LEAP to the north-west of the listed building, to further remove built form from its backdrop when the principal elevation is viewed straight-on from the B1018.

In doing so the proposal reduces the extent to which the development would form the backdrop of the listed building, and the extent to which the listed building would be subsumed into Tye Green. This impact is proposed to be further reduced by the imposition of maximum storey heights for areas on more sensitive edges of the development. These revisions should considerably reduce the visual and physical impact which the development would have on the listed building, and the impact which it would have on its significance. The development however would still likely be partially perceivable and would bring the boundary of Tye Green closer to the listed building, in a manner which would alter the current historic separation between Hawbush Green and Tye Green. They therefore have to identify harm to the significance of the listed building, but would characterise this as less than substantial, and to be considerably further down the spectrum than the original iteration of the scheme.

They state that the set-back on Mill Lane is also a positive alteration which would improve the impact which the development would have on the rural tranquillity of this lane, and to the environment in which the Stubbles Farm complex is experienced. Again however, the development is considered to have a detrimental impact on the significance of the listed barn and its associated non-designated farmhouse. They opine that this is perhaps most evident in the long views across to the complex from the land adjacent to the B1018. Therefore again they have to identify less than substantial harm to the significance of these heritage assets, although would also have to place this at the lower end of the spectrum.

They conclude that the development would result in harm to the significance of these heritage assets, as per paragraph 134 of the NPPF, albeit harm at

the lower end of the spectrum, and which would have to be weighed against the public benefits accrued from the scheme.

#### ECC Historic Environment Officer

No objection. The Essex Historic Environment (HER) Record shows that the proposed development would affect a site of archaeological interest. A Desk Based Assessment (DBA) has been submitted with the application which has identified the potential for archaeological remains within the development area based on the presence of known cropmark features and the recorded archaeological remains within the area, a possible prehistoric henge monument lies less than 500m to the southeast which is protected as a scheduled monument.

The proposed development lies within a site with recorded evidence for historic agricultural activity, which may be Medieval or earlier in origin, and immediately adjacent to finds suggestive of prehistoric activity (HER 47014). It lies close to a small historic settlement at Hawbush Green, likely to be medieval in origin and medieval and later farmsteads. Braintree Road is a historic route along which listed buildings survive dating from the medieval period onwards. The site is undeveloped and has the potential for surviving archaeological remains which will be impacted upon by the proposed development. Planning conditions are recommended to be imposed upon any grant of planning permission.

#### Highways England

No objection. Recommend that a condition be attached to any planning permission that may be granted to ensure that no part of the proposed development shall be brought into beneficial use or occupation until the highway improvements (footway improvement along Bulford Mill Lane) between the site and the railway station at Cressing have been secured.

#### NHS England

No objection. The following comments are with regard to the primary healthcare provision on behalf of NHS England Midlands and East (East), incorporating Mid Essex Clinical Commissioning Group (CCG):

The proposed development is likely to have an impact on the services of 1 GP practice (Silver End) operating within the vicinity of the application site. The GP practice does not have capacity for the additional growth resulting from the proposed development; and the proposed development would likely have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. NHS England therefore expects these impacts to be fully assessed and mitigated, for to not do so would be considered to be unsustainable.

A Healthcare Impact Assessment (HIA) has been prepared by NHS England to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area. The proposed development could generate approximately 540 residents and subsequently increase demand upon the existing constrained services.

The development would give rise to a need for improvements to capacity, in line with CCG estates strategy, by way of refurbishment, reconfiguration, extension or potential relocation at Silver End Surgery; a proportion of the cost of which would need to be met by the developer.

NHS England has provided details of the Capital Cost Calculation of additional health services arising from the development proposal and consequently a developer contribution of £85,169 is requested. They therefore request that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 Agreement.

### LETTERS OF REPRESENTATION

115 Letters of representation have been received from third parties objecting to the proposal. The objections raised centre upon the following issues:

#### Principle of Development

- Cressing could lose its village status as the proposed development would change the nature of the community at Tye Green by doubling its size;
- Cressing is classed as a 'tertiary village', not a 'service village';
- There are concerns that if the development is rushed through then it would seriously undermine the Cressing Neighbourhood Plan;
- Site Cress 193 HAS not been allocated in the Draft Local Plan as suitable for residential development;
- The proposed development would be unsustainable due to overpopulation, lack of employment and local services; and would be totally isolated from the rest of Tye Green;
- The proposed application is contrary to the National Planning Policy Framework (NPPF);
- The proposed development is not within the Tye Green, Cressing village boundary and is on a green field site, resulting in the loss of valuable arable land which may be needed for growing crops;
- Development of the proposed site has been considered, and rejected, by both BDC and its local Sub-committee;
- There has been zero consideration given to the village, its residents or any of the surrounding area;
- The proposal to build 300+ new homes on the site is unsustainable, socially, economically and environmentally;
- Residents express concern over the lack of incentive for the Parish. Strutt and Parker are offering 0.25ha of land for the school to expand, but are offering no financial help to improve the village amenities and infrastructure;

- Concerns over errors in Countryside's approach to calculating the recovery in the short fall against building targets, requiring the Council to make good the shortfall over the next five years;
- There is no demand from within the community to increase housing on the scale envisaged by this application.

### Access

- Further development would place more strain on already overloaded car routes including A120 and B1018, and congestion on country lanes including Bulford Mill Lane;
- Crossing of the B1018 on foot or bicycle is already difficult and dangerous due to high volume of traffic;
- Allowing developments of this size without improving roads, such as that between Galleys Corner and Cressing make a mockery of sustainable and ecological travel;
- The application fails to address safety issues for pedestrians walking to and from the station;
- Additional pressures on an inadequate rail service, and concern for the safety of passengers on overcrowded trains;
- Insufficient parking/stopping places/pick up points at Cressing Train Station for additional rail users, causing dangerous congestion at the level crossing;
- Lack of storage solutions for bicycles at Cressing Station;
- The local bus service is inadequate;
- Concerns over plans to include footpath on Bulford Mill Lane for pedestrians and cyclists, as this would reduce the width of an already narrow lane that is barely sufficient for two vehicles to pass;
- The proposal to build a virtual footway to mitigate risks, contains errors and must be rejected;
- Mill Lane is an unclassified road and is not safe for higher levels of traffic;
- Mill Lane and Bulford Mill Lane are narrow country lanes already overloaded with traffic;
- Access to Cressing Station along Bulford Mill Lane is in some parts only one car width and is already at a saturation point with traffic. This lane has to accommodate both pedestrians and cars and more pedestrian footfall would be unwise;
- The idea of a footpath behind the hedgerow which has been suggested is preposterous;
- The access for heavy site vehicles would be very problematic and dangerous due to the narrowness of Mill Lane from both directions, with many pinch points making it one lane for heavy good vehicles
- Concerns the proposed new layby adjacent to Cressing Primary School would create more congestion and an additional hazard to school children.



### Layout, Design and Appearance

- The proposed properties are not in keeping with the style of properties in Tye Green;
- There has to be a limit to position, size, density and access to these developments and all four of these criteria have been broken;
- Overall size is too great; houses built with no front gardens cause a catastrophic effect.

### Landscape and Ecology

- The addition of proposed residential development would result in a reduction of green land between Braintree and Witham;
- The proposed development would impose more urban sprawl on a rural environment by effectively linking Tye Green and Hawbush Green;
- The development would have a massive effect on the environment, adversely affecting wild life and destroying hedgerows, as well as increasing noise and light pollution;
- Concerns about the potential increase in littering as population increases;
- The development would spoil the natural countryside and views across the village;
- Concerns over loss of arable land for growing food and raising livestock;
- Concerns over Tye Green losing its rural village location and open countryside;
- The proposed new build would not be in keeping with the local landscape.

### Heritage

- Concerns about the effect of added pollution on neighbouring listed buildings;
- Concerns over serious damage to Grade II listed buildings on Mill Lane from flooding and structural damage due to increased volume of traffic;
- Concerns the proposed development would destroy the historical context of three historical buildings;
- An archaeological survey has indicated that the proposed development would effect a site of archaeological interest;
- Concerns over adverse affect on the Protected Lane status of Bulford Mill Lane and Mill Lane.

### Residential Amenities

- None of the proposals (CRESS 192/193) offer improved facilities, such as expansion of schools and GP surgery's, to cope with increased population;
- Existing residents in The Westerings would be overlooked by the proposed new houses, which back onto existing gardens;

- There is concern over the impact of the proposed development on houses along The Westerings;
- There is concern over what looks like a block of flats being built the other side of the recreation ground and the impact these would have on existing properties being overlooked;
- Irreversible impact on the families already existing in Heycroft Drive, The Westerings, Benton Close, Mill Lane and Braintree Road.

### Community Infrastructure

- Overburden of existing utility services, which are already deemed insufficient;
- Concerns that the sewer system using 9" pipes, would not be sufficient to cope with the amount of waste from the houses;
- There are no plans to build a GP surgeries to cope with the increased population;
- Lack of proposed improvements to infrastructure;
- Increased provision of land totalling 0.8ha for an expansion of the school is insufficient.

### Flooding

- More houses would increase the surface water, as it can no longer drain through the land;
- Surface water and flooding are already an issue in the area, so further development would leave less land for drainage;
- Concerns the proposed pond would not be sufficient to prevent flooding.

## REPORT

### Principle of Development

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Currently the Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The Publication Draft Local Plan (DLP), following amendments, was approved by Council for Regulation 19 Consultation and Submission on 5 June 2017. The DLP was published for Consultation between 16 June and 28 July 2017 and consequently submitted to the Planning Inspectorate on 9 October 2017. The public examination into Section 1 of the DLP (shared with Colchester Borough and Tendring District Councils) began on 16 January 2018.

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

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

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

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

It should also be noted that the Council was working on a Site Allocation and Development Management Plan (the ADMP). This Plan was subject to extensive public consultation in 2013 and 2014. This document was not submitted to the Planning Inspectorate due to the decision to begin work on a new Local Plan to take into account the most up to date government guidance. However parts of the ADMP have been rolled forward into the draft Local Plan.

It is therefore considered that it would be consistent with the provisions in paragraph 216 of the NPPF, to afford more weight in decision making to the parts of the new Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements of the Local Plan.

The spatial strategy set out in the draft Local Plan is to concentrate growth in the most sustainable locations - that is, where there are opportunities for walking, cycling and public transport links to nearby shops, services and employment opportunities. This means for the new Local Plan:

*“That the broad spatial strategy for the District should concentrate development on Braintree, planned new garden communities, Witham and the A12 corridor, and Halstead”.*

The Growth Locations identified under the Core Strategy are also carried forward. These include the following:

- Land to the North-West of Braintree - off Panfield Lane;
- Land to the West of the A131 at Great Notley (entirely employment related);
- Land to the South-West of Witham - off Hatfield Road;
- Land to the North-East of Witham (in Rivenhall Parish) - off Forest Road.

Taken together, these initiatives amount to significant steps that are designed to increase the delivery of housing (and economic growth) in the District, in line with government policy as set out in the NPPF.

The application site is located close to, but outside the Village Envelope of Tye Green and is situated in the countryside for the assessment of adopted planning policy.

As highlighted by a number of representations, the site was submitted for consideration through the draft Local Plan where it was identified as 'CRESS193'.

The site was originally discussed at the 9 May 2016 Local Plan Sub-Committee. Officers recommended that the site was not allocated for development. The Officer comment on the site in the Local Plan Sub Committee Report stated *"the site is identified as being of medium capacity (4a) in the landscape capacity assessment. Listed buildings are adjacent to the site at Hawbush Old House and Stubbles Farm. The development of a strategic sized allocation in Tye Green Cressing is not appropriate at this time, as large strategic development is being concentrated toward the main urban areas in the District such as Braintree."* The Local Plan Sub Committee accepted the Officer recommendation not to allocate the site.

The site was discussed again at the Local Plan Sub-Committee on the 15 December 2016 where comments that were received during the public consultation were considered. The Officer report again stated that no overriding constraints had been identified, but considered that up to 300 dwellings would be a large scale for a village with Cressing's position in the spatial hierarchy.

Within its hierarchy of settlements the DLP places Cressing within the 'Tertiary Villages' category, which sits below the Towns, Key Service Villages and secondary villages. The DLP highlights under its Spatial Strategy in paragraph 5.5 that development levels in each village will depend on its level of facilities and sustainability. Tertiary Villages have been defined *'as the smallest in the District and lack most of the facilities required to meet day-to-day needs. They often have very poor public transport lines and travel by private vehicle is usually required'*.

However, notwithstanding the fact that Cressing is listed as a third tier village in the DLP, Tye Green is relatively well serviced, and enjoys, amongst other things, the provision of a Primary School, Post Office and convenience shop, petrol station, hairdressers, Sports and Social Club, recreation ground, as well as a railway station on the Braintree branch line, providing a direct link to Witham, Chelmsford and London. The village is also in close proximity to Braintree town and Freeport with their full range of services, facilities and employment opportunities, which along with the other district towns of Halstead and Witham are accessible via the no. 38 and 38A bus routes which run regular services Monday to Saturday. Weekday services run between 5:46 and 18:55 at a half hourly frequency. The Saturday service is also half hourly, albeit only between 7:32 and 18:02.

Therefore, whilst Cressing's Tertiary Village status would indicate it is in a relatively unsustainable location, and not suitable for significant development, Officers are mindful that Planning Inspectors have concluded other villages, with far fewer facilities than Tye Green, can be considered a suitable and sustainable location for development. This was found to be the case by the Council in the assessment of the adjacent site, granted planning permission

pursuant to 16/00397/OUT and 17/01671/REM.

Consequently, whilst not designated as a key service village Tye Green can nonetheless be considered to be one of the more sustainable and accessible villages within the District, and acts as a local centre for its surrounding rural area, in common with some of the key service villages.

This position supports the NPPF's presumption in favour of sustainable development which is also reflected within DLP Policy SP1.

### 5 Year Housing Land Supply

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

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

A planning appeal decision in October 2017 (APP/Z1510/W/17/3172575, Land off Wethersfield Road, Finchingfield, decision dated 19 October 2017) concluded that this issue was a matter more properly to be considered by the Inspector who will examine the emerging Local Plan, who will be able to assess which method is best based on all the relevant information. Previous to that appeal decision, two Inspectors had indicated the view that in the absence of an up to date adopted Plan based on this approach, the Sedgefield approach should instead apply by default until such time as it was considered at the Local Plan Examination.

In all of these cases, it was accepted that there had not been persistent under-delivery, and therefore the standard buffer of 5% should apply to the calculation of the 5 year supply target.

These appeal decisions are a material consideration in the determination of residential development proposals. The Council's view as at 31 December 2017 was that the forecast supply for the period 2018-2022 was 5.15 years by the 'Liverpool' approach and 4.03 years by the 'Sedgefield' approach. In light of the appeal decisions referred to above Officers consider that the Council must currently use the Sedgefield method when assessing current planning applications.

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

This does not mean that sites outside of existing development boundaries are automatically appropriate for new development, however, the above is reinforced at NPPF paragraph 14 which identifies the presumption in favour of sustainable development as sitting at the heart of the NPPF, and that for decision-taking this means *"where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework (NPPF) taken as a whole; or specific policies in this Framework indicate development should be restricted"*.

The lack of a 5 year housing land supply, when assessed under the Sedgefield method, is therefore a material consideration which must be afforded significant weight in the consideration of the planning balance as set out at paragraph 14 of the NPPF in evaluating proposals for sustainable development.

### Site Assessment

#### Access

Part 4 of the NPPF indicates that all development that could generate significant amounts of vehicle movements should be supported by a Transport Assessment to ensure, amongst other things, that suitable access to the site can be achieved and that opportunities for sustainable transport modes are explored to reduce the need for major transport infrastructure. Development should only be prevented where the residual cumulative impacts are likely to be severe. Saved Policy RLP54 and RLP55 require that a Transport Assessment is submitted with all proposals for major new development.

As with any new development, it is inevitable that road traffic would be generated, however the key is to provide other options, such that future residents are given the opportunity to travel by more sustainable means, including by electric car.

It is acknowledged that in addition to the Parish Council's objection, a large number of letters of representation raised objections to the proposal on accessibility grounds. In respect of those concerns, the scheme now only proposes a single point of access onto the B1018, that of the proposed roundabout and the secondary access shown to lead to and from the School layby has been omitted.

The roundabout would have a beneficial effect by slowing down traffic passing along Braintree Road in close proximity to the School, and would enable vehicles accessing the site to do so more safely, without obstructing traffic from making right turn manoeuvres which could be the case without such a junction. It is accepted that both the A120 and B1018 at peak times carry significant traffic volumes, although in due course this could be mitigated through the re-routing of the former road from the Galleys Corner area.

A number of objectors refer to Protected Lane status being afforded to Mill Lane (which runs along the southern boundary of the site) and Bulford Mill Lane (which connects Mill Lane to Cressing Railway Station). These roads are not designated as protected lanes in the current adopted development plan but it is proposed to be granted 'protected' status in the DLP. Policy LPP 46 of the DLP states that the Council will '*conserve the traditional landscape and nature conservation character of roads designated on the Proposals Map as Protected Lanes, including their verges, banks, ditches and natural features such as hedgerows and other structural elements contributing to the historic features of the lanes.*

*Any proposals that would have a materially adverse impact on the physical appearance of these Protected Lanes or generate traffic of a type or amount inappropriate for the traditional landscape and nature conservation character of a protected lane, will not be permitted'.*

As previously stated the DLP has been submitted for examination in public by the Planning Inspectorate but whilst it should be given some weight when considering the application the amount of weight that the policy can be attributed is still limited. It is therefore necessary to assess the impact of the development on Mill Lane and Bulford Mill Lane.

The application shows a single vehicular access into the site – from Braintree Road – so no vehicular access is proposed onto Mill Lane. The application does not propose to directly alter / remove verges, banks, ditches and natural features such as hedgerows. A substantial landscape buffer is proposed adjacent to Mill Lane which will separate built development from the lane which is intended to help conserve the traditional landscape and nature conservation character of the road. If permission is granted details of landscaping will be required at Reserved Matter stage and this would provide an opportunity to secure additional planting to supplement existing hedgerows.

It is difficult to predict precisely how many vehicle movements associated with the future occupation of the proposed development would use these lanes.

However, in conjunction with the approval of the adjoining site, a number of measures are proposed to be secured by the Local Highway Authority (LHA), through the imposition of planning conditions/inclusion of planning obligations within the S106 agreement, so as to encourage the uptake of more sustainable means of travel. These include: The provision of two new bus stops on Braintree Road; Improvements to Bulford Mill Lane to aid pedestrian movement between the site and Cressing Railway Station; a £15,000 contribution towards additional, covered, secure cycle parking at Cressing Railway Station; Cycle parking at Tye Green Post Office; pedestrian / cycle links to / from the site and the provision of Residential Travel Information Packs to all new residents of the scheme.

In respect of construction related traffic, the LHA have requested a construction traffic management plan to be secured, which amongst other things, would cover the routeing of such vehicles.

With regard to other issues raised in respect of the accessibility of pedestrians and cyclists to the station and other local destinations, it is noted that at times the crossing of the B1018 on foot or bicycle can be difficult due to high volumes of traffic. It is anticipated that the introduction of the roundabout could help reduce speeds through the village by acting as a traffic calming measure and altering driver's perception of the road. The Parish Council would like to see a crossing installed on the B1018 and in 2017 an application was made to the Local Highways Panel (LHP) for an On Demand Light Controlled Crossing to link Tye Green and Cressing Village. The suggested location was approximately 40 metres south of the application site. The January LHP agenda lists the scheme but categorises this as a 'red' scheme – which means that a scheme has been submitted for consideration but it has been assessed as not meeting ECC criteria. Officers do not consider that the proposed development would give rise to the need for a light controlled pedestrian crossing as residents of this development would have little reason to cross the B1018 as almost all of the village services and facilities are located on the same side of the B1018. If the development were to proceed and the roundabout installed then the Parish Council and Highway Authority may want to explore whether there would be an opportunity to extend the footway on the eastern side of the Braintree Road 80m north towards the new roundabout where the islands at the entrance / exit would provide pedestrian refuges which would provide pedestrian crossing points.

In order to provide safe and straightforward connections into the village, potential linkage points are shown into the recreation ground and the adjoining Bellway / Mill Lane site on the Access and Movement Parameter Plan. The position of the link(s) across the Recreation Ground would need to be agreed with the Parish Council (as landowner). The developer would need to reach agreement with the Parish Council to construct the link across the Recreation Ground and the S106 agreement would need to be drafted so as to reflect the reliance of third party land to provide this link. Members will recall that the approved layout of the Bellway / Mill Lane scheme shows two connection points where pedestrian / cycle links can be formed to connect to this application site. The links to the Bellway site are secure as these are



already subject to a legal agreement with Bellway. Officers recommend that the S106 agreement include an obligation that the applicant constructs these links to an adoptable standard. A series of pedestrian routes are also shown on the Access and Movement Parameter Plan throughout the development site and the surrounding Public Open Space (POS). The details of internal pedestrian / cycle routes would be agreed at Reserved Matters stage and Officers would expect particularly strong, safe pedestrian / cycle routes leading to / from the Primary School.

Concerning accessibility to the Station, a scheme is currently being worked up by the Highway Consultants of Bellway who are to develop the adjoining site, the final details of which will be submitted to the District Council in due course. In the unlikely event that the adjoining site isn't developed, Countryside Properties would be obliged through the S106 agreement to implement a package of works within the extent of the public highway to improve pedestrian safety along Bulford Mill Lane. These highway works would be more limited in nature (expanding and cleaning the carriageway within the extent of highway land; redesigning the Bulford Lane Mill Lane intersection in order to allow a crossing point and footway to be created; new lamp columns to provide adequate lighting for pedestrians and to ensure they are clearly visible to any other road users; Pedestrian only markings would be made on the road) as the applicant does not control land to either side of Bulford Mill Lane. The agreement would also require a financial contribution which would also provide covered cycle parking at the station.

The LHA has stated that with the NPPF in mind, particularly paragraph 32, they have reviewed the planning application and supporting transport assessment to ensure the proposal site could be accessed safely; and any impacts adequately mitigated in terms of highway safety and capacity. They also have sought to ensure as far as possible, that the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

Having visited the site and reviewed the additional information submitted, they raise no objection to the proposal, subject to the imposition of the aforementioned conditions/planning obligations, the full wording of which can be found below.

All in all, the site access arrangements have been the subject of dialogue between the LHA and the applicant's highway consultant, both at the pre-application stage and during the determination process of the proposal. The proposed highway works are supported by a stage one safety audit and designer's response.

Therefore, from a highway and transportation perspective the impact of the proposal is considered acceptable. Whilst all matters raised by the Parish Council and third parties with regard to highways have been taken into account, in the absence of an objection to the proposal from the LHA, it is considered that the Council would not be able to substantiate a reason for refusal on the basis of highway safety grounds.

Overall, it is considered that the site is positioned in a relatively sustainable location with reasonably good public transport access to the services and facilities of the larger settlements of the District and beyond.

Finally on this issue, the Council's adopted parking standards state that a minimum of 1 space per dwelling should be provided for 1 bedroom dwellings and a minimum of 2 spaces per dwelling should be provided for 2 and more bedroom dwellings. Also 0.25 spaces per dwelling are required for visitor parking. Parking spaces should measure 5.5 metres by 2.9 metres and garages (to be counted towards parking provision) should measure 7 metres by 3 metres. The development will need to be laid out in a manner that adheres to these standards and pays regard to the need to plan for sustainable access for all.

#### Reserved Matters - Appearance, Landscaping, Layout and Scale

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 58 states that developments should aim to *'establish a strong sense of place, using streetscapes and buildings to create attractive comfortable places to live, work and visit; and respond to local character and history and reflect the identity of local surroundings and materials'*.

Policy CS9 of the Core Strategy states that *'the Council will promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment'*. This is supported by Policy RLP90 of the Local Plan Review and these sentiments are also reflected with DLP Policies SP6, LPP37, LPP50 and LPP55 which are concerned with place shaping principles, housing type and density, the built and historic environment and the layout and design of development respectively.

Policy CS10 of the Core Strategy requires that the Council will ensure that there is good provision of high quality and accessible green space to meet a range of recreation, outdoor sport and amenity needs. New development should make appropriate provision for publicly accessible green space or the improvement of accessible green space to meet the future needs of residents. The development would include structural landscaping; amenity space and an equipped play area.

The current application is an outline application with all matters reserved except access. The applicant has submitted an indicative site layout drawing, in addition to parameter plans, setting out their vision for developing the site, which along with the Design and Access Statement demonstrates one way in which the site could be developed. As referred to above, a detailed access drawing has also been submitted which identifies the proposed main vehicular access onto Braintree Road.

The applicant describes this as a residential development of up to 225 dwellings, giving rise to a gross density of approximately 16.5 dwellings per hectare, and with the net density being 28.8 dwellings per hectare. The Council's Draft Local Plan states that *"As a general guide the Council would expect densities in the District to be at least 30 dwellings per hectare to ensure the most efficient use of land"*, although due to the site's edge of village location and listed buildings near the site this slightly lower density is considered more appropriate by Officers than that advocated by the DLP.

Amendments to the proposal since its original submission in December 2016 included a reduction in the area proposed for residential development by 2.34 ha; an increased green buffer between the proposed developable area and Mill Lane, with a minimum depth of 45m; a green buffer proposed between the developable area and Braintree Road; an increased green buffer on the eastern part of the site adjacent to Hawbush Old House (35-75m, providing an offset of between 115-140m between the developable area and the Grade II listed building); and the provision of an additional parameter plan restricting building heights of the proposed development, in particular along sensitive edges.

On this latter point the scheme would be built to a maximum of 2 storeys (maximum 8.5m ridge height) over the majority of the site, including key interfaces shared with the existing recreation ground and housing, including the listed Hawbush Old House, and the POS. Over the remainder of the site the Building Heights Parameter Plan identifies that no more than one third would be higher than this, up to 11m for two and a half storey buildings.

The applicant states that it is intended that the proposal would take cues from the Essex Design Guide, and Officers consider that the proposal has the potential to respond positively to local character, provide buildings that exhibit individual architectural quality and a mix of densities and house-types with well-defined public and private spaces. The public realm through additional landscaping, street furniture and other distinctive features would assist in creating a sense of place, and provide streets and spaces that are overlooked and active, promoting natural surveillance and inclusive access, as well as including parking facilities that are well integrated as part of the overall design.

Although appearance, landscaping, layout and scale are reserved matters, the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's location on the edge of the village and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features.

### Landscape and Ecology

Part 11 of the NPPF indicates that development should contribute to and enhance the natural environment and that impacts on biodiversity should be minimised. Policy CS8 Natural Environment and Biodiversity states that *"development must have regard to the character of the landscape and its sensitivity to change and where development is permitted it will need to*

*enhance the locally distinctive character of the landscape in accordance with the Landscape Character Assessment". Policy CS8 also states that "the restoration and enhancement of the natural environment will be encouraged through a variety measures". These aims are supported by Policies RLP80 and RLP84 of the Local Plan Review.*

In terms of the adopted Local Plan, the site is not covered by any particular landscape designation. Some residents have identified the fact that the site was just outside the Brain Valley Special Landscape Area. The Special Landscape Area designation, which previously applied to large areas of land across the whole district in the Braintree District Local Plan Review (2005), was superseded by CS Policy CS8 when it was adopted in 2011. Policy CS8 relies on the landscape character assessments set out in the 2006 Landscape Character Assessment and the Council's Landscape Capacity Analysis (Braintree District Settlement Fringes) June 2015 (LCA). The latter is finely grained to the point where it deals with specific land parcels. In this case the application site is located within Land Parcel 4a which is described as follows:

*"4.7 A semi-circular Parcel of land extending from the south-east edge of Tye Green and bounded to the east by the B1018 and to the south and west by Mill Lane. The Parcel comprises a large- to medium scale pattern of fields with hedged boundaries, containing both arable and rough grass. The listed Hawbush Old House is located in the south-eastern corner. The Parcel is located on the higher plateau along with Tye Green. To the south-west, the land drops into the valley of the River Brain.*

*4.8 Public access is limited to a footpath along the settlement edge, and public views into the Parcel are limited. Neighbouring residential properties in Tye Green afford filtered views into the Parcel.*

*4.9 The Parcel's relationship to Tye Green settlement edge and its limited visual influence on the surrounding landscape afford it some opportunities to accommodate development. Such development would need to respect the setting of Hawbush Old House and maintain a separation with the hamlet of Hawbush Green.*

*4.10 Any development should be sensitive in scale, style and layout to the southern edge of Tye Green, and where possible should incorporate the key characteristics of the settlement. Existing vegetation along Mill Lane should be preserved and enhanced in order to reinforce the distinction between Tye Green and the river valley landscape beyond. Opportunities should be explored to improve public access provision through the Parcel, in particular, there is potential for a green link along the northern edge that could continue out towards Cressing Station."*

Members will note that Land Parcel 4a includes this application site and that adjoining site to the north-west, on which Bellway have permission to erect 118 dwellings. The Council's Landscape Services Team confirm that the land lies on the higher plateau along with Tye Green, but views into the site are

fairly limited and the public footpath provision in the area is restricted to one running along the settlement edge.

Given that the site lies within a parcel of land which the Council has already identified as having a medium capacity for development and which although visible from the immediate environs, has little wider visibility, Officers consider that there would not be landscape harm (either on character or visual impact) of sufficient magnitude to refuse the development on landscape grounds.

The proposal has been made in this context, although it is imperative that the reserved matters that follow any grant of outline planning permission reflect the importance of ensuring that the site can absorb new development in a suitable and sympathetic manner. There is quite clearly an opportunity for the development to provide some feature planting as part of a landscape scheme and the green buffer around the site's perimeter would add value and character to the proposed development. This is in compliance with Policy CS10 of the Core Strategy which requires the Council to ensure that there is good provision of high quality and accessible green space to meet a range of recreation, outdoor sport and amenity needs; and that new development should make appropriate provision for publicly accessible green space or the improvement of accessible green space to meet the future needs of residents.

The landscape buffer would also provide for surface water mitigation, and with a limited level of ecology/biodiversity on the cultivated (main) part of the site, the expectation is that this can be improved with a suitable landscape scheme at the reserved matters stage and a sympathetic approach to the design of the SUDS features. Consequently, the illustrative Site Plan demonstrates how the site could accommodate the proposed quantum of development whilst incorporating significant soft landscape features around the periphery of the site, and allowing the retention and bolstering of existing tree and hedge lines.

Policy RLP80 states that proposals for new development will be required to include an assessment of their impact on wildlife and should not be detrimental to the distinctive landscape features and habitats of the area such as trees, hedges, woodlands, grasslands, ponds and rivers. Development that would not successfully integrate into the local landscape will not be permitted. Policy RLP84 states that planning permission will not be granted for development, which would have an adverse impact on protected species' and where appropriate, the Planning Authority will impose conditions to: facilitate the survival of individual members of the species; reduce disturbance to a minimum; and provide supplementary habitats.

As highlighted above, Landscape Services confirm that the arboricultural survey submitted by the applicant reveals that the majority of the boundary vegetation is fairly unremarkable in its component trees (the majority of the trees / hedges / groups were placed in category B or C with three category A trees), but collectively has an established capacity for screening and adding amenity to the site. The better quality trees are in the area of land facing onto the Primary School and are retained in school ownership. The retention (and protection) of these trees as boundary features and for their acknowledged

contribution towards the screening of the site is considered to be a prerequisite for the development; and an appropriate Tree Protection Plan would need to be approved and in place before development starts on site. Some of the hedgerows are in need of management / maintenance / replanting and if the scheme receives permission then proposals for achieving this should be conditioned as the health of the retained hedgerows will be an important feature to help ensure the site comfortably absorbs the development.

As described within the submitted ecological assessment, surveys were conducted for: habitat; hedgerows; amphibians (Great Crested Newts); bats; and Badgers. The assessment highlights that the site is one large arable field with hedgerows along some boundaries which do not form an entire green perimeter. It is accessed off the B1018 Braintree Road on its north-eastern side, where there is scrub and a water-filled ditch. On the eastern and southern sides is Mill Lane, along the western and north-western sides is a dry ditch and overgrown hedgerow.

The surveys concluded:

- Amphibians - an assessment of ponds in the immediate area found them to be poor for Great Crested Newts, but the proximity of some to the boundary indicated the need for further consideration. One impounded ditch ("pond") within the site and two close to the boundaries were tested for Great Crested Newt environmental DNA, all with negative results;
- Bats - all trees bar two were recorded as negligible for bat roosts. Two were identified as having low potential, which is where an individual bat might use them for feeding or overnight roosts. The wooded boundaries were considered to provide potential for commuting or foraging by bats, and Noctule bats could use the interior; and
- Badgers - Old (disused) Badger holes were found on boundaries and one recently used latrine shows that Badgers might no longer be resident, but still visit the site.

Consequently, the site was valued at Zone of Influence level as it is habitat poor and with no confirmed residence of protected species.

In terms of impacts, mitigation and enhancement, impacts are mainly related to the felling of scrub and trees to create an entrance, and potential disturbance to and interruption of bat flight lines. Development would also be likely to create lighting impacts on bats. Minor impacts on Badgers could also occur.

The main mitigation would be to enhance the woody green corridors, including planting where no woody boundary currently exists, and protecting them from lighting impacts by appropriate design. The assessment also recommends that all trees should be retained if possible and prior to any felling or scrub clearance a check for nesting birds is recommended. An attenuation pond will provide additional and new habitat.

Therefore, in totality, having made their own assessment of the site, considered the applicant's landscape and ecological documentation submitted in support of the proposal, and the Council's own Landscape Capacity Analysis study of the site, Officers consider that there should be no substantive objection to the proposed residential development on the grounds of landscape or ecological impact, subject to the imposition of reasonable planning conditions.

### Agricultural Land

Policy CS8 of the Core Strategy states that 'Development should protect the best and most versatile agricultural land'. The NPPF states that '*Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality*'.

Natural England has published Agricultural Land Classification maps, showing the quality of agricultural land at a regional level. The map for the Eastern Region identifies the general area in which this site is located as being mostly Grade 3B with parts as Grade 3A.

However as Members will be aware the majority of agricultural land within this part of Essex falls within grade 2 or grade 3 agricultural land, which means that the majority of the agricultural land in the District will fall within the definition of Best and Most Versatile Agricultural Land (Grade 1, 2 & 3a). In this case, the submitted Agricultural Land Classification and Soil Resources report stipulates the site in question to be given a classification of Subgrade 3b across the site.

Consequently, and having regard to the presumption in favour of sustainable development, It is considered that the loss of this particular site from agricultural use is not considered to represent a sufficient basis for resisting the scheme, notwithstanding a preference for developing brownfield sites wherever possible.

### Flood Risk and Drainage

Part 10 of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. Inappropriate development in areas at risk of flooding should be avoided. Furthermore, Policy CS8 of the Core Strategy states that the Council will minimise exposure of people and property to the risks of flooding by following the national guidance. In particular the sequential test will be applied to avoid new development being located in the areas of flood risk.

The proposed development is located within Flood Zone 1 (low probability risk), and having reviewed the proposals and associated documents which accompanied the planning application, including the additional information submitted during its lifetime, ECC Flood and Water Management confirm that, subject to the imposition of reasonable planning conditions, the proposal would provide appropriate measures to manage surface water through the implementations of SUDS and other engineered hydrological measures.

It is noted that some local residents have raised concerns about surface water flooding and refer to existing ground conditions and flood events. A developer cannot be expected to deal with existing flooding issues in the surrounding area, but they must demonstrate that measures would be put in place which can handle the surface water run-off from within their development, without putting the new dwellings at risk of flooding, or increasing the risk of flooding to existing dwellings in the locality. The surface water drainage strategy outlined by the applicant demonstrates that this can be achieved.

It is also understood that concerns have been raised over the capacity of the existing sewerage system/facilities for the village. Anglian Water states that the foul drainage from this development would be in the catchment of White Notley Water Recycling Centre that would have available capacity for these flows. However, they state that the development could lead to an unacceptable risk of foul water flooding downstream, therefore a drainage strategy would need to be prepared in consultation with them to determine mitigation measures. A condition could be imposed to this effect. From this basis it is considered that the Council could not substantiate reasons for refusal of planning permission in respect of sewerage capacity; and the proposal overall would not give rise to flood risk emanating from surface water generated by the proposal.

### Living Conditions

One of the Core Principles set out in the NPPF is that planning should always seek to secure a high quality of design and a good standard of amenity for all existing and future occupants. This is supported by Policy RLP90 which states that there shall be no undue or unacceptable impact on the amenity of any nearby residential properties. The DLP Policies have similar objectives as those set out in the Local Plan Review.

Concerns have been raised that existing properties within The Westerings in particular would be overlooked and therefore the privacy of their occupants would be invaded by the proposal.

Whilst matters of layout and scale are reserved for future determination, with regard to privacy, the Essex Design Guide states that *“with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel, and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable”*. It goes on to state that *“where new development backs on to the rear of existing housings, existing residents are entitled to a*



*greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses may not encroach any closer than 15 metres to an existing rear boundary, even though with a closer encroachment 25 metres between the backs of houses would still be achieved”.*

The distances between new and existing dwellings could be well in excess of those required by the Essex Design Guide and Officers consider that there are no reasonable grounds for refusal in terms of the relationship between existing dwellings in the locality and the proposed development. Consequently, adherence to these standards would ensure that the living conditions of existing residents would be protected from overlooking.

Furthermore, the illustrative site plan indicates how landscaping could be retained and enhanced within the application site, so as to further mitigate the effects of the development. Officers consider that a detailed layout could be designed which achieves an appropriate relationship with the existing dwellings and which would also be sympathetic to the character of the surrounding area.

With regard to noise and other aspects of environmental protection, the Council's Environmental Services team raise no objection to the proposal subject to the imposition of a number of recommended conditions in relation to the prohibition of the burning of refuse, waste materials or vegetation; the submission of a dust and mud control management scheme; the restriction of the hours within which site clearance, demolition or construction work place on the site; and the submission of a scheme of external lighting.

Concerning the relationship of the site with Braintree Road, Environmental Services also require the applicant to provide details of the window/ventilation systems and any other noise mitigation to ensure that the relevant internal and external noise levels are achieved, pursuant to BS8233:2014 Guidance on Sound Insulation and Noise reduction for Buildings. In addition they state that the contaminated land report recommends further intrusive investigation, which should also include assessment of any pesticides on the site and therefore an appropriate condition is also recommended to protect the future occupants of the development.

Reference has also been made by local residents to the issue of overburdening existing sewerage, gas, water, electricity, telephone and broadband services; however there is a duty on Statutory Undertakers to make adequate arrangements to supply utilities to new housing development. Anglian Water has however requested the submission of a foul water drainage strategy as discussed above.

In respect of the other utilities it is noted residents refer to issues with the current service provided. Whilst it is true additional properties will increase demand, this could be the stimulus that leads Utility Providers to invest in services and upgrade them. This could help mitigate the impact of the development and potentially improve the service provided to existing residents as well.

All in all it is considered that the above measures would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts.

### Built Heritage

In considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority is required, as set out at Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Furthermore, the significance of a listed building is based on a range of heritage values that make up their overall architectural and historic interest and they have aesthetic value as attractive buildings within the landscape. The NPPF makes clear that the significance of heritage assets derives not only from their physical presence, but also from their setting. The NPPF defines setting as the surroundings in which a heritage asset is experienced.

In addition as a material consideration, Policy CS9 states that the Council will promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment in order to, amongst other things, respect and respond to the local context, where development affects the setting of historic buildings, and areas of highest archaeological and landscape sensitivity. These sentiments are supported by Policy RLP 100 and DLP Policy LPP60.

As highlighted by the Council's Historic Buildings Consultant (HBC), immediately to the south of the site is Hawbush Old House, an architecturally interesting house, formed of a surviving fourteenth century cross-wing and two later phases of sixteenth century construction. The house was restored in the 1960s and later extended. The building is listed Grade II, and occupies a visually prominent location, due to the open nature of the land around it and its proximity to the B1018.

To the west of the application site is Stubbles Farm, which is located directly across the road from the development site, and is therefore in closest proximity to the development. Whilst the farmhouse itself does not have statutory protection, the adjacent barn is listed Grade II in its own right. The building was constructed around the turn of the eighteenth and nineteenth century and is of timber frame and weatherboard construction. The farmhouse does however appear on the 1st edition OS map, and whilst not having statutory protection may be considered to be of sufficient social and historic significance to merit being classed as a non-designated heritage asset. Further along Mill Lane, Jeffreys Farm is a grade II Listed Building which is timber framed and plastered, and appears to have undergone a recent scheme of restoration. The building was constructed in the seventeenth century, with later eighteenth and nineteenth century extensions.

In their previous response to the proposal of up to 300 dwellings, the HBC was particularly concerned about the impact of the development on the significance of Hawbush Old House, which is currently experienced in a relatively open and undeveloped landscape and is read as being part of Hawbush Green rather than Tye Green. They highlighted the significance of this relationship to Hawbush Green, as well as its relationship to the staggered cluster of farm complexes along Mill Lane.

Their concerns were particularly focussed on: The visual interrelationship which would be created between the proposed development and Hawbush Old House, particularly given the visual permeability of the current screening hedge; and the proximity of the new housing to the listed building, creating a sense that it would be experienced as part of a larger modern suburban development. This was considered to be particularly evident in the key views looking north up the B1018 towards the Listed Building, in which the new housing would form its immediate backdrop.

The HBC also raised concerns as to the impact on the significance of the farmhouse and barn at Stubbles Farm. These concerns particularly related to: The severing of long views of the farm complex across the site, which allow an understanding of its position in the landscape and its relationship with other farm complexes on Mill Lane - important to establishing its historic significance; and The altering of how Mill Lane itself is experienced, and the altering thereby of the environment in which this farm complex, and to a lesser extent the complex at Jeffrey's Farm, are experienced.

They therefore were not able to support the application, which they identified would result in harm to the significance of the two Listed Buildings, as well as a non-designated heritage asset.

In response to the applicant's revisions to their masterplan, to reduce the maximum number of dwellings from 300 to 225 and to respond to previous objections, the HBC acknowledges that the revisions have sought to address their concerns - most significantly the applicants have increased the proposed open space on the buffer with Hawbush Old House, along Mill Lane and Braintree Road. The applicant has also sought to amend the site plan to place an attenuation basin and play area to the north-west of the listed building, to further remove built form from its backdrop when the principal elevation is viewed straight-on from the B1018.

The HBC states that in doing this, the proposal reduces the extent to which the development would form the backdrop of Hawbush Old House, and the extent to which the listed building would be subsumed into Tye Green. This impact is proposed to be further reduced by the imposition of maximum two storey heights for areas on more sensitive edges of the development. They opine that these revisions should considerably reduce the visual and physical impact which the development would have on the listed building, and the impact which it would have on its significance. They go on to state however that the development would still likely be partially perceivable and would bring

the boundary of Tye Green closer to the listed building, in a manner which would alter the current historic separation between Hawbush Green and Tye Green. They therefore have to identify harm to the significance of the listed building, but would characterise this as less than substantial, pursuant to paragraph 134 of the NPPF, and to be considerably further down the spectrum than the original iteration of the scheme.

With regard to the set-back on Mill Lane, the HBC also considers this to be a positive alteration which would reduce the impact which the development would have on the rural tranquillity of the lane, and to the environment in which the Stubbles Farm complex is experienced. Again however, they consider the development would have a detrimental impact on the significance of the listed barn and its associated non-designated farmhouse. They opine that this is perhaps most evident in the long views across to the complex from the land adjacent to the B1018. Therefore again they identify less than substantial harm to the significance of these heritage assets, and place this at the lower end of the spectrum.

Officers do not disagree with the HBC's view that the proposal would result in less than substantial harm to the significance of these heritage assets. However paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. This weighing exercise is carried out within the 'Planning Balance' section below.

Third parties have also raised concerns with regard to the listed buildings being subjected to flooding and structural damage due to the increased volume of traffic. However, as previously reported the County Council are satisfied that suitable arrangements can be put in place to deal with surface water drainage such that there would be no increased risk of flooding off-site and it is considered that the amount of traffic generated by the development, both during its construction process and from first occupation would not be so material as to create issues in respect of these matters.

### Archaeology

In its glossary, the NPPF highlights that *"There will be archaeological interest in a heritage asset if it holds, or potentially may hold, evidence of past human activity worthy of expert investigation at some point. Heritage assets with archaeological interest are the primary source of evidence about the substance and evolution of places, and of the people and cultures that made them."* Policies LPP63 and Policy RLP106 also apply, these state that where permission is given for development which will affect archaeological remains, conditions are required to ensure that the site is properly excavated and recorded before the commencement of development.

As highlighted by the Council's Historic Environment Officer, the Essex Historic Environment (HER) Record shows that the proposed development would affect a site of archaeological interest. The application has identified

the potential for archaeological remains within the development area based on the presence of known cropmark features and the recorded archaeological remains within the area. A possible prehistoric henge monument lies less than 500m to the southeast which is protected as a scheduled monument.

The proposed development lies within a site with recorded evidence for historic agricultural activity, which may be Medieval or earlier in origin, and immediately adjacent to finds suggestive of prehistoric activity (HER 47014). It lies close to a small historic settlement at Hawbush Green, likely to be medieval in origin and medieval and later farmsteads. Braintree Road is a historic route along which listed buildings survive dating from the medieval period onwards. The site is undeveloped and has the potential for surviving archaeological remains which will be impacted upon by the proposed development. Planning conditions are therefore recommended to be imposed upon any grant of planning permission.

### Site Assessment Conclusion

Having assessed the specific merits of the site in terms of its potential to accommodate the proposal in a sustainable manner, Officers are of the opinion that the proposed quantum of development could be accommodated without significant adverse impacts, subject to the 'Planning Balance' exercise below.

### Planning Obligations

Policy CS11 Infrastructure Services and Facilities of the Core Strategy states that the Council will work with partners, service delivery organisations and the development industry to ensure that the infrastructure services and facilities required to provide for the future needs of the community are delivered in a timely, efficient and effective manner.

The following identifies planning obligations that the District Council would seek to secure through a S106 agreement.

### Affordable Housing

Policy CS2 of the Core Strategy requires developers to provide affordable housing on site with a target of 40% affordable housing provision on sites in rural areas or 30% affordable housing on sites in urban areas. The application site is located in the countryside adjacent to the village of Tye Green where the provision of 40% affordable housing accords with the requirements of Policy CS2.

Policy RLP 3 of the Local Plan Review 2005 requires that regard is paid to the extent to which proposals for housing development will contribute towards meeting local housing needs. Policies RLP 7 and RLP 8 require that new residential development should seek to achieve mixed communities incorporating a mix of different house types, sizes and tenures.

As highlighted by Housing Research and Development based on the proposal for a reduced number of residential homes (up to 225 units), for 40% of the dwellings to be for affordable, it would equate to up to 90 homes. Although it is acknowledged that details concerning the mix of affordable dwellings would be subject to a reserved matters application, the amended indicative affordable housing mix below would be considered appropriate to match evidence of housing need.

- 15 x 1 bedroom 2 person flats
- 21 x 2 bedroom 4 person flats
- 40 x 2 bedroom 4 person houses
- 8 x 3 bedroom 5 person houses
- 4 x 3 bedroom 6 person houses
- 2 x 3 bedroom 5 person bungalows (built to Part M Cat 2 of Building Regs.)

Other additional factors concerning affordable housing that should be considered are as follows:

- Requirement for affordable homes to be clustered in a minimum of 3 areas of the site;
- All affordable dwellings that are accessed at ground floor level should be compliant with Building Regulations Part M Cat 2;
- Tenure mix should be 70/30 affordable rent over intermediate housing such as shared ownership.

### Education

As highlighted in the consultation response the Education Authority - Essex County Council (ECC) - a development of this size can be expected to generate the need for up to 20.2 early years & childcare (EY&C), 67.5 primary school, and 45 secondary school places.

In regard of EY&C provision, although it is a fine balance, it is not envisaged at this time that a new setting solely to serve this development would be viable and, therefore, an expansion project or new provision that serves a number of new sites would need to be looked at.

Based on 225 dwellings the contributions due would be: EY&C £294,010 and Primary would be £859,545, index linked to April 2016. The precise figures would however be dependent upon the number and size of dwellings that would be built and would be calculated using ECC's standard formula.

0.415ha of land would also be transferred to ECC to allow the extension of the Primary School; and the applicant is to offer them the option to purchase (at D1 Use Class Value) an additional 0.385ha to allow further expansion of the Primary School to two form entry in the future if deemed necessary by ECC in its education planning capacity. It is acknowledged that such an expansion

would change the character of the village's Primary School, however that is not a determining factor in assessing the proposal currently before Members.

Due to the Community Infrastructure Levy Regulations (CIL Regs) pooling restriction, a secondary school places contribution is not being sought, but there would be a requirement to provide secondary school transport, from the development, as there is no safe walking route to the nearest secondary school. ECC are thereby obliged to provide school transport at a cost of £4.44 per pupil per day for, 190 days (an academic year), for a period of 5 years. The precise figures level of contribution that the County Council would seek will be dependent upon the number and size of dwellings that would be built but for Members information the contribution based on 60 secondary pupils for school transport would be £189,810 index linked to April 2016.

### Healthcare

NHS England have advised the Council that the proposed development is likely to have an impact on the services of 1 GP practice (Silver End) operating within the vicinity of the application site. The GP practice does not have capacity for the additional growth resulting from the proposed development; and the proposed development would likely have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area, and specifically within the health catchment of the development. NHS England therefore expects these impacts to be fully assessed and mitigated, for to not do so would be considered to be unsustainable.

A Healthcare Impact Assessment (HIA) has been prepared by NHS England to provide the basis for a developer contribution towards capital funding to increase capacity within the GP Catchment Area. The proposed development could generate approximately 540 residents and subsequently increase demand upon the existing constrained services.

The development would give rise to a need for improvements to capacity, in line with CCG estates strategy, by way of refurbishment, reconfiguration, extension or potential relocation at Silver End Surgery; a proportion of the cost of which would need to be met by the developer.

NHS England has provided details of the Capital Cost Calculation of additional health services arising from the development proposal and consequently a developer contribution of £85,169 (£378.53 per dwelling) is necessary. They therefore request that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 Agreement.

A number of objectors to this application have referred to the fact that the majority of Tye Green residents are registered with GP's (and dentists) in Braintree and they suggest that any funding to be secured should be directed towards addressing capacity issues at Braintree surgeries. Officers have raised this issue with NHS England and they have advised that the

contribution sought is to mitigate the impact of the new residents generated by this development, not to address existing capacity issues. NHS England cannot pre-empt patient choice, however to enable consistency and fairness across the area when responding to planning consultations where mitigation is required this is sought for primary healthcare facilities within a 2km radius, or closest to the proposed development if there are no facilities within 2km. NHS England remain satisfied that the funding which would be secured should be allocated to improve capacity at the Silver End practice.

### Highways

The LHA has advised that works are required to be carried out to mitigate the highways and transportation impacts of the proposed development. Planning conditions and the S106 agreement can be used to secure the mitigation as highlighted in the Consultations section above. Those elements to be specifically secured by way of planning obligations include: Provision of two new bus stops on Braintree Road; Improvements to Bulford Mill Lane to aid pedestrian movement between the proposal site and Cressing Railway Station; a £15,000 contribution towards additional, covered, secure cycle parking at Cressing Railway Station; Cycle parking at Tye Green Post Office; Provision of two 3m wide pedestrian/cycle links to connect the application site to the Mill Lane development adjacent; and for the applicant to use reasonable endeavours to provide a footway across the Recreation Ground to its car park.

### Public Open Space

Policy CS10 of the Core Strategy requires that the Council will ensure that there is good provision of high quality and accessible green space to meet a range of recreation, outdoor sport and amenity needs. New development should make appropriate provision for publicly accessible green space or the improvement of accessible green space to meet the future needs of residents.

The Council's Open Space SPD sets out further details on how these standards will be applied. A development of this size would be expected to make provision for equipped children's play areas and informal and casual open space on site. The applicant's Landscape parameter plan identifies the provision of a minimum of 1.1 hectares of 'Parks and Gardens' and at least 3.85 hectares of 'Amenity Green Space'. This level of provision is well in excess of the minimum standards specified in the Core Strategy and Open Spaces SPD. The proposed Public Open Space will include an Equipped Play Area, which will be equipped with play equipment which exceeds a minimum value which will be calculated using the Open Space SPD table/figures.

The SPD also specifies that a financial contribution should be sought towards the provision of off-site outdoor sports facilities and allotment provision.

Regarding the former, the contribution would be calculated using the SPD figures, and its purpose would be for the expansion, modification or improvement of the sports facilities at the Jeffreys Road Recreation Ground.



The financial contribution would be calculated on the number and size of the dwellings constructed, to be determined at the reserved matters stage/s, however as a very broad guide Officers estimate that based on a housing mix reflective of the District's housing needs the contributions would be approximately £185,500 for Outdoor Sports.

Furthermore, at the suggestion of Planning Officers the applicant has agreed, subject to the agreement of the Parish Council, to remove the soil mound from the southern end of the recreation ground and to reinstate the land to a condition suitable for use as a football pitch. This will increase the useable area of land within the existing Recreation Ground.

Whilst the Council would usually seek a financial contribution towards the provision or improvement of allotments in the area, Cressing currently does not have an allotment site, or a scheme to create an allotment site. As such it would not be reasonable to request a financial contribution for such a purpose.

### Community Facilities

Policy CS11 of the Core Strategy states that the Council will work with partners, including the development industry, to ensure that the infrastructure services and facilities required to provide for the future needs of the community are delivered. Infrastructure services and facilities could include 'transport, health, education, utilities, policing, sport, leisure and cultural provision, and local community facilities'.

Cressing Parish Council have stated that should permission for this development be given, they would be looking for a major contribution towards the infrastructure, community facilities and the open spaces in the parish. In addition to those above they have highlighted their project for a new village hall for the Parish on land at the Recreation Ground.

Based on schemes of comparable scale, in the District, the contribution sought would be £104,022 towards a new Village Hall.

### Other Matters

Due to the scale of the development proposed, and in order to minimise disturbance to existing residents, as well as ensuring that the mix of housing meets the requirements of the Council's Strategic Market Housing Assessment, it is recommended that a Site Wide Housing and Phasing Strategy be submitted for approval prior to the submission of the first Reserved Matters application. This should also include details of market and affordable housing provision; and a phasing plan.

Overall, it is considered that the above satisfy the tests for planning obligations set out in the CIL Regulations, which are necessary to: make the development acceptable in planning terms; directly relate to the development; and fairly and reasonably related to the development in scale and kind.

## PLANNING BALANCE/ CONCLUSION

This is an application for Outline Planning permission, with all matters reserved with the exception of access. The applicant has provided details of how they propose to access the site off Braintree Road and the Local Highway Authority has no objection to the proposed arrangements. All other matters (Appearance; Landscaping; Layout; and Scale) are reserved and it can therefore be said that the application seeks to establish the principle of residential development of the site.

NPPF paragraph 14 stipulates that at its heart is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

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

It has been acknowledged that the site is situated outside a defined settlement boundary and whilst the site was put forward for allocation through the new Local Plan it was not included in the Publication Draft Local Plan. Therefore for all intents and purposes rural policies of restraint apply. However, due to the fact that the Council cannot currently demonstrate a five year supply of housing land, relevant policies are deemed out of date and therefore the presumption in favour of sustainable development applies. This is a factor which must be given significant weight in the determination of this application.

Perhaps critically with regard to this proposal, is the fact that it has been deemed to cause less than substantial harm to the setting of two designated heritage assets (listed buildings), with the NPPF stating that in such circumstances this harm should be weighed against the public benefits of the proposal.

Whilst the development does not propose vehicular access onto Mill Lane Officers acknowledge that the development would have an indirect impact on the volume of traffic using Mill Lane and Bulford Mill Lane, increasing the current level of use. These roads are not designated as protected lanes in the current adopted development plan but it is proposed that they are classified as 'protected lanes' in the DLP. Policy LPP 46 of the DLP states that the Council will not allow development that would have a materially adverse impact on the physical appearance of these Protected Lanes or generate traffic of a type or amount inappropriate for the traditional landscape and nature conservation character of a protected lane. Although the development is likely to result in an increase in traffic movements that would be detrimental to the character of

the protected lanes which must be weighed in the determination of this application the weight that can be given to the policies in the DLP remains limited as the Plan is yet to be subject to Examination in Public by the Planning Inspectorate. The harm to these non-designated heritage assets must be weighed against the public benefits that the development would bring.

Clearly in times where there is significant pressure to increase the delivery of developable housing land, the granting of planning permission for up to 225 houses would go some way in meeting the Council's Objectively Assessed Need for housing. This, along with the provision of much needed affordable housing, of an appropriate dwelling type mix to meet social needs, also falls in favour of the proposal. The applicant has submitted a suite of detailed documents which demonstrate that the site is free of any constraints to residential development which cannot be resolved by way of conditions, the submission of further information at the Reserved Matters stage and through planning obligations (S106 Agreement).

The proposal would also give rise to the provision of public open space and children's play space on site, in excess of the minimum standards required to meet the needs for a development of this size. Financial contributions towards the off-site provision of outdoor sports facilities would also be provided, along with a contribution towards a new community village hall. The scheme would generate a significant number of construction jobs during the build phase, in addition to bringing new residents to Tye Green to provide further support for existing services and facilities. The LHA has also found that the proposal would not give rise to a material increase in traffic, nor would it give rise to conditions that would be detrimental to highway safety, provided that their recommended access and highway improvements are implemented. The site has the potential to have good links for pedestrians / cyclists to other parts of the village and this will benefit future residents of this development, as well as other Tye Green residents.

Paragraph 134 of the NPPF directs that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In this case Officers consider that the public benefits do outweigh the less than substantial harm identified by the Council's Historic Buildings Adviser.

The site has been assessed as having the capacity to accommodate the proposed quantum of development without significant adverse impacts on the wider landscape or upon ecology. The site is also capable of accommodating SUDS techniques that can be employed to minimise the risk of off-site surface water flooding. The applicant has demonstrated to the satisfaction of the Lead Local Flood Authority the principles of how surface water can be managed within the site to slow the rate of runoff through the use of attenuation basins before it is discharged. The precise detail of how this will be achieved will be agreed at Reserved Matters stage when the applicant will submit a detailed surface water drainage strategy. The Lead Local Flood Authority will be

consulted over the detailed design and the applicant will need to demonstrate again that the detailed scheme will minimise the risk of surface water flooding, both on and off the site.

The site is considered to be reasonably well positioned for access to the facilities of the village, as well as to both bus and rail services connecting to the local towns, service centres, and beyond.

In this particular case there are not considered to be any specific policies in the Framework (the 'Footnote 9 Grounds') that would indicate that a development of housing at this site should be prohibited. This means that the LPA must consider the proposals in the context of the 'tilted balance' indicated by the first bullet point of paragraph 14 of the Framework; i.e. to consider whether the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.

Having assessed the specific merits of the application, Officers consider that the adverse impacts of permitting the proposed development would not significantly and demonstrably outweigh the benefits which the proposal would bring when considered against the Council's policies and the requirements of the NPPF, both individually and taken as a whole. It is therefore recommended that Members approve a resolution to grant, subject to planning conditions and completion of a S106 legal agreement covering the Heads of Terms listed below.

### **RECOMMENDATION**

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

- **Affordable Housing** – 40% of units on-site to be Affordable Housing, with a final mix to be agreed at the reserved matters stage, but with a 70%/30% ratio of affordable rent over shared ownership; to include the provision of 2 x 3 bed 5 person wheelchair bungalows and all affordable dwellings that are accessed at ground floor level to be compliant with Building Regulations Part M Cat 2;
- **Education** - Financial contribution for Early Years and Childcare provision in the locality. Contribution to be calculated in accordance with standard ECC provisions based on the number of dwellings to be constructed, index linked to April 2017. Financial contribution towards the cost of secondary school transport for future residents. Contribution to be calculated in accordance with standard ECC provisions and the number of dwellings that are developed. 0.415ha of land to be transferred at nil cost to ECC to allow the extension of the Primary School; and the applicant is to offer them the option to purchase (at D1 Use Class Value) an additional 0.385ha to allow further expansion in the future;
- **Health** – Financial contribution of £378.53 per dwelling towards the

refurbishment, reconfiguration, extension or potential relocation at Silver End Surgery;

- **Highways & Transport** – Provision of two new bus stops on Braintree Road; Improvements to Bulford Mill Lane to aid pedestrian movement between the proposal site and Cressing Railway Station; a £15,000 contribution towards additional, covered, secure cycle parking at Cressing Railway Station; Cycle parking at Tye Green Post Office; Provision of two 3m wide pedestrian/cycle links to connect the application site to the Mill Lane development adjacent; and for the applicant to use reasonable endeavours to provide a footway across the Recreation Ground to its car park.
- **Public Open Space** (on-site) - Provision of a minimum of 1.1 hectares of 'Parks and Gardens' and at least 3.85 hectares of 'Amenity Green Space', all to be managed by a Management Company;
- **Equipped Play Facility** – To be provided on-site, with a minimum value for play equipment calculated in accordance with the tables within the Open Spaces SPD;
- **Outdoor Sports** - Financial contribution calculated in accordance with updated figures from the Open Spaces SPD and the number and size of dwellings approved at Reserved Matters stage, to be spent on expansion, modification or improvement of the sports facilities at the Jeffreys Road Recreation Ground. Removal of soil mound from the southern end of the recreation ground and reinstatement to a condition suitable for use as a football pitch.
- **Community Facility** - Financial contribution of £104,022 towards new Village Hall.
- **Site Wide Housing and Phasing Strategy** - to be submitted for approval prior to submission of first Reserved Matters application and to include details of market and affordable housing provision; and a phasing plan.

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

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

#### APPROVED PLANS

Access Details	Plan Ref: MBSK170818-1	Version: P1
Parameter Drawing	Plan Ref: ACCESS AND MOVEMENT - 16831 GA(--)	003
Parameter Drawing	Plan Ref: LANDSCAPE - 16831 GA(--)	004
Parameter Drawing	Plan Ref: LAND USE - 16831 GA(--)	001
Parameter Drawing	Plan Ref: BUILDING HEIGHTS - 16831 GA(--)	002

1 Details of the:-

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

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

Application for approval of the first reserved matters, for the whole of the site, or the first phase of the development, shall be made to the local planning authority not later than 2 years from the date of this permission.

The development hereby permitted shall be implemented not later than 2 years from the date of approval of the last of the reserved matters to be approved for the whole site, or the first phase of the development.

Reason

The particulars submitted are insufficient for consideration of the details mentioned and also pursuant to Section 92 of the Town and Country Planning Act 1990 and to ensure that the site comes forward within a reasonable timescale and assist the Local Planning Authority in the delivery of housing.

- 2 The submission of the reserved matters application/s pursuant to this outline planning permission shall together provide for no more than 225 dwellings, car parking, public open space, landscaping, surface water attenuation and associated infrastructure and demonstrate compliance with the approved plans listed above.

Reason

For the avoidance of doubt as to the scope of the permission and to ensure that the site is not over-developed, in the interests of protecting the character and appearance of the area and the setting of listed buildings, in addition to the living conditions of the occupants of existing neighbouring dwellings and future occupiers of the proposed development.

- 3 a) No development or preliminary groundworks can commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.
- b) A mitigation strategy detailing the excavation/preservation strategy shall be submitted to the local planning authority following the completion of this programme of archaeological evaluation. .

c) No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been signed off by the local planning authority through its historic environment advisors.

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

#### Reason

The site may be of archaeological interest and the programme of archaeological works must be completed prior to development commencing in order that any archaeological remains that do exist on the site are assessed and recorded before they might be harmed by construction activity.

- 4 Each Reserved Matters application that seeks approval of appearance, layout or scale of the building(s) as detailed within Condition 1 for a relevant phase of the development, shall be accompanied by full details of the location and design of the refuse bins and recycling materials separation, storage areas and collection points.

Where refuse collection vehicles are required to go onto any road, that road shall be constructed to take a load of 26 tonnes. No dwelling shall be occupied until the approved details for refuse bins, and where applicable, storage areas and collection points, for that dwelling have been provided.

#### Reason

To meet the District Council's requirements for recycling, to prevent the unsightly storage of refuse containers and in the interests of amenity and sustainability.

- 5 No development shall take place, including any ground works or demolition, until a Construction Method Statement and Traffic Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i. The parking of vehicles of site operatives and visitors;
  - ii. Loading and unloading of plant and materials;
  - iii. Storage of plant and materials used in constructing the development;
  - iv. Wheel and underbody washing facilities;
  - v. Safe access to/from the site including details of any temporary haul routes and the means by which these will be closed off

- vi. following the completion of the construction of the development; The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vii. Measures to control the emission of dust, dirt and mud during the construction of the proposed development;
- viii. A scheme for recycling/disposing of waste resulting from demolition and construction works;
- ix. a scheme to control noise and vibration during the construction phase
- x. Provision of a dedicated telephone number(s) for members of the public to raise concerns/complaints, and a strategy for pre-warning residents of noisy activities/sensitive working hours.

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

#### Reason

To ensure that on-street parking of construction vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1 and DM20 of the Highway Authority's Development Management Policies February 2011. In addition this condition is necessary to protect the amenities of the occupiers of nearby residential properties and the surrounding area. The Statement is required prior to the commencement of development to ensure that measures are in place to safeguard the amenity of the area prior to any works starting on site.

- 6 Prior to the first occupation of the development the vehicular access shall be implemented as shown on in principle on drawing MBSK170818-1 Rev P1.

#### Reason

To protect highway efficiency of movement and safety.

- 7 No dwelling shall be occupied until a Residential Travel Information Pack for sustainable transport has been produced by the developer, the details of which shall have been previously submitted to and approved in writing by the local planning authority.

The pack shall include six one day travel vouchers for use with the relevant local public transport operator and shall be provided to the first occupiers of each new residential unit on the development site.

#### Reason

To ensure the proposal site is accessible by more sustainable modes of transport.

- 8 All buildings containing flats shall be equipped with a communal TV and



radio aerial and satellite dish in positions to be submitted to and approved in writing by the local planning authority. On all buildings, satellite dishes shall be of dark coloured mesh unless fixed to a light coloured, rendered wall, in which case a white dish shall be used. Satellite dishes shall not be fixed to the street elevations of buildings or to roofs.

Reason

To ensure that the development does not prejudice the appearance of the locality and to avoid dishes and aerials cluttering a building which would be detrimental to visual amenity.

- 9 Prior to the commencement of above ground construction works on the proposed dwellings, details of Electric Vehicle Charging Points to be provided shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details prior to first occupation of the development and thereafter retained in accordance with the approved details.

Reason

To ensure the proposal site is accessible by more sustainable modes of transport.

- 10 Any Reserved Matters application relating to scale or layout shall be accompanied by full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels and shall include cross sections of the site and show the relationship of the proposed development to existing neighbouring development.

Reason

To avoid the excessive raising or lowering of any building hereby permitted and the alteration of ground levels within the site which may lead to un-neighbourly development with problems of overlooking and loss of privacy.

- 11 No vehicular movements relating to the construction of the development to, from or within the site shall take place outside the following times:-

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours

Sundays, Public and Bank Holidays - no vehicular movements

Reason

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

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

Monday to Friday 0800 hours - 1800 hours

Saturday 0800 hours - 1300 hours  
Sundays, Public and Bank Holidays - no work

Reason

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

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

Reason

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

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

Reason

In the interests of the amenity of residents of the locality and to prevent air pollution to the natural environment.

- 15 Development shall not be commenced until an investigation and risk assessment, in addition to any assessment provided with the planning application, have been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and approved in writing of the Local Planning Authority.

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

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

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

The remediation scheme must be submitted to and approved in writing by the Local Planning Authority.

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

Reason

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

- 16 The first reserved matters application for appearance shall include details of sound attenuation against external noise, to ensure that the maximum internal and external noise levels are achieved as given in Table 4 and section 7.7.3.2 of BS8233:2014 Guidance on Sound Insulation and Noise reduction for Buildings. The approved sound attenuation works shall be completed before the dwellings are occupied and be retained thereafter.

Reason

To ensure an adequate living environment for the future occupiers of the proposed development.

- 17 Details of any proposed external lighting to the site for each phase of the development shall be submitted to, and approved in writing by, the local planning authority as part of any Reserved Matters application. The details shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). For the avoidance of doubt the strategy shall also:
- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme, and shall be maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the

Local Planning Authority.

Reason

To minimise pollution of the environment, to safeguard the amenities of the locality and the appearance of the development and to demonstrate the LPA has met its legal responsibilities, including those required by UK Habitats Regulations (2010 as amended), Crime and Disorder Act (1998) and Countryside & Wildlife Act (1981 as amended).

- 18 No development shall commence until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
- Infiltration testing in line with BRE 365. If infiltration is demonstrated to be unfeasible, discharge rates should be limited to the 1 in 1 greenfield rate for all storm events up to and including the 1 in 100 year storm plus 40% allowance for climate change. If run-off rates are to be based on the whole site, storage must be provided for the whole site and it must be demonstrated that appropriate CV values and catchment areas have been used.
  - Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 inclusive of climate change event.
  - Demonstration that any property on site will be safe from flooding in 1 in 100 inclusive of climate change storm event.
  - Final modelling and calculations for all areas of the drainage system. If the site is discharging to the open channel, details should be provided in regards to the level of the outfall from the site so that the outfall are not submerged in all storm events up to the 1 in 100 plus climate change storm event or alternatively any surcharging at the outfall should be modelled and managed appropriately.
  - Provide more detail in regards any land raising at the site. It should be demonstrated that this will not increase flood risk off site.
  - The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
  - Detailed engineering drawings of each component of the drainage scheme.
  - A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any

drainage features.

- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason

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

This information is required prior to development commencing as failure to make adequate arrangements for dealing with surface water could lead to off-site flooding.

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

Reason

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

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

This information is required prior to site clearance or development commencing as failure to make adequate arrangements for dealing with surface water could lead to off site flooding.

- 20 No development shall take place until a Maintenance Plan detailing the

maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

**Reason**

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

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

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

**Reason**

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

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

**Reason**

To prevent environmental and amenity problems arising from foul water flooding.

- 23 The landscaping scheme required by Condition 1 of this permission shall incorporate a detailed specification of hard and soft landscaping works for individual dwellings and the apartment blocks, for each phase of the development. This shall include plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage, signs and lighting, as well as methods for the protection of existing trees and hedges.

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

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in phases to be agreed as part of that scheme by the local planning authority.

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the relevant building which it serves.

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

#### Reason

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

24 A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to occupation of the development. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed particularly the retained trees and hedgerows.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

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

#### Reason

To ensure that the biodiversity of the site is enhanced and effectively

managed following the completion of the development.

- 25 If the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 3 years from the date of the planning permission, the approved ecological measures secured through Condition 24 shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to i) establish if there have been any changes in the presence and/or abundance of bats and farmland birds and ii) identify any likely new ecological impacts that might arise from any changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

Reason

In the interests of biodiversity and to demonstrate the LPA has met its legal responsibilities, including those required by UK Habitats Regulations (2010 as amended), Crime and Disorder Act (1998) and Countryside & Wildlife Act (1981 as amended).

- 26 No removal of hedgerows, trees or shrubs shall take place in any phase of the development, between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority.

Reason

In the interests of biodiversity and to demonstrate the LPA has met its legal responsibilities, including those required by UK Habitats Regulations (2010 as amended), Crime and Disorder Act (1998) and Countryside & Wildlife Act (1981 as amended).

- 27 The first Reserved Matters application for Appearance on each phase of the proposed development shall include details of all gates / fences / walls or other means of enclosure which shall be submitted to and approved in writing by the local planning authority. The details shall include position, design, height and materials of the enclosures and shall be implemented prior to the occupation of the relevant plot and shall be permanently retained as such, in accordance with the approved details.



Reason

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

- 28 The Reserved Matters application for Layout shall include a site-wide "master plan" for all areas of housing development, public realm and character areas, including the incorporation of public art, which shall be submitted to and approved in writing by the local planning authority prior to the approval of any reserved matters. All reserved matters submissions shall accord with the approved site wide guidance, unless otherwise agreed in writing by the local planning authority. The agreed strategy for each area shall be implemented within 12 months of occupation of the dwellings in each respective phase to which it relates.

Reason

In the interests of good design and ensuring a high quality and characterful development and promoting social and cultural well-being.

- 29 Prior to installation of any meter cupboards on the dwellings details of the location, design and materials for the relevant phase of the development shall be submitted to and approved in writing by the local planning authority. Development shall only be implemented in accordance with the approved details and shall be permanently retained as such.

Reason

In the interests of visual amenity.

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

Reason

In the interests of visual amenity.

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

Reason

In the interests of visual amenity.

- 32 No above ground works shall commence in the relevant phase of the development until a schedule and samples of the materials to be used on the external finishes of the dwellings and buildings on the site have been submitted to and approved in writing by the local planning authority. The development shall only be implemented in accordance with the approved details.

Reason

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

- 33 Prior to the commencement of above ground construction of the relevant phase of the development details of a scheme for the provision of nest and roost sites for birds and bats shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details prior to the first occupation of the dwellinghouses and thereafter so retained.

Reason

In order to ensure that appropriate provision is made for birds and bats on the site.

- 34 As part of the submission of the first reserved matters application as detailed within Condition 1, a Arboricultural Impact Assessment (AIA) and Arboricultural Method Statement (AMS), produced in accordance with BS 5837:2012, shall be submitted and approved in writing by the Local Planning Authority.

The AMS will include a Detailed Tree Protection Plan (DTPP) indicating retained trees, trees to be removed, the precise location and design of protective barriers and ground protection, service routing and specifications, areas designated for structural landscaping to be protected and suitable space for access, site storage and other construction related facilities. The AMS and DTPP shall include details of the appointment of a suitably qualified Project Arboricultural Consultant who will be responsible for monitoring the implementation of the approved DTPP, along with details of how they propose to monitor the site (to include frequency of visits; and key works which will need to be monitored) and how they will record their monitoring and supervision of the site.

The AMS shall also include details of management and maintenance of existing hedgerows and additional planting within the application site and if the scheme receives permission then proposals for achieving this should be conditioned as the health of the hedgerows is a significant aspect of filtering / screening views of the development and providing a buffer to the listed buildings.

The development shall be carried out in accordance with the approved details. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities within that Phase of the development and shall remain in place until after the completion of the development to the complete satisfaction of the local planning authority.

Following each site inspection during the construction period the Project Arboricultural Consultant shall submit a short report to the local planning authority.

The Local Planning Authority shall be notified in writing at least 5 working days prior to the commencement of development on site.

#### Reason

To ensure existing trees, shrubs and hedges are retained as they are considered essential to enhance the character of the development.

#### INFORMATION TO APPLICANT

- 1 Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. Furthermore, a fee of £28 for householder applications and £97 for all other types of application will be required for each written request. Application forms can be downloaded from the Council's web site [www.braintree.gov.uk](http://www.braintree.gov.uk)
- 2 Your attention is drawn to the need to discharge conditions before development starts where it is a requirement of the condition/s. Development will be treated as having been commenced when any material change of use or material operation has taken place, pursuant to Section 56 of the Town and Country Planning Act 1990. A material operation means any work of construction in the course of the erection of a building, including: the digging of a trench which is to contain the foundations, or part of the foundations of a building; the laying of any underground main or pipe to a trench, the foundations, or part of the foundations of a building; any operation in the course of laying out or constructing a road or any part of a road; and any work of demolition of a building. If development begins before the discharge of such conditions then those conditions cannot be discharged and a breach of planning control will have occurred, which may result in enforcement action being taken.
- 3 Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [suds@essex.gov.uk](mailto:suds@essex.gov.uk). Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office. Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note. It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- 4 Your attention is drawn to condition 3 of this planning permission and that there may be archaeological remains on the site. Any financial implications resulting from the need for archaeological investigation and subsequent protection measures are the responsibility of the developer/applicant. In respect of these requirements, you are advised to

contact the Essex County Council, Historic Environment Branch (Teresa O'Connor, 01245 437638).

- 5 You are advised that the granting of planning permission does not absolve you from complying with the relevant law regarding protected species, including obtaining and complying with the terms and conditions of any licenses required by Part IV B of the Circular 06/2005 (Biodiversity and Geological Conservation - Statutory Obligations)
- 6 All works within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. An application for the necessary works should be made to [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or SMO1 - Essex Highways, Colchester Highways Depot, 910 The Crescent, Colchester CO4 9QQ.
- 7 In respect of Condition 4 you are advised that the details should include provision for the storage of three standard sized wheeled bins for each new dwelling with a collection point no further than 25 metres from the public highway.
- 8 You are advised to notify the local planning authority of the presence of any significant unsuspected contamination which becomes evident during the development of the site.
- 9 In respect of the contamination conditions, the contamination investigation, risk assessment and remediation strategy shall be undertaken by competent person(s) and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'.
- 10 This development will result in the need for a new postal address. Applicants should apply to the Street Naming & Numbering Officer using the application form which can be found at [www.braintree.gov.uk/streetnaming](http://www.braintree.gov.uk/streetnaming). Enquiries can also be made by emailing [streetnaming@braintree.gov.uk](mailto:streetnaming@braintree.gov.uk).
- 11 Please note that the Council will contact you at least annually to gain information on projected build out rates for this development. Your co-operation with this request for information is vital in ensuring that the Council maintains an up to date record in relation to Housing Land Supply.
- 12 All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate

notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority. Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works. All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).

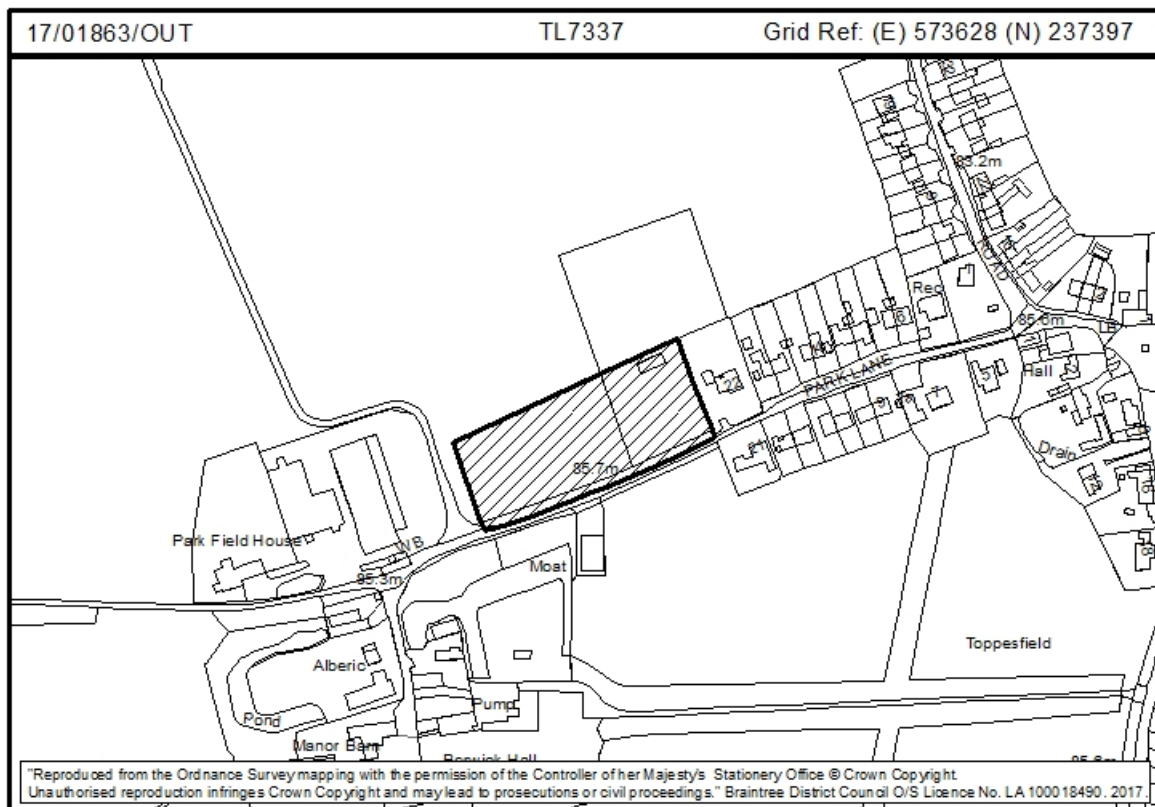
TESSA LAMBERT  
DEVELOPMENT MANAGER

AGENDA ITEM NUMBER 5b

PART A

APPLICATION 17/01863/OUT      DATE 17.10.17  
NO:      VALID:  
APPLICANT: Mr And Mrs Page & Mr And Mrs Clark  
c/o agent  
AGENT: Mr Andrew Ransome  
Plainview Planning Ltd, Oliver House, Hall Street,  
Chelmsford, CM2 0HG  
DESCRIPTION: Application for outline planning permission with all matters  
reserved - Erection of 7no. self-build dwellings  
LOCATION: Land At, Park Lane, Toppesfield, Essex

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



## SITE HISTORY

Planning history relating to the eastern part of the site:

12/00266/FUL	Change of use of agricultural land to residential garden	Refused	19.04.2012
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## POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5<sup>th</sup> June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16<sup>th</sup> June to 28<sup>th</sup> July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9<sup>th</sup> October 2017.

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

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

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

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

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

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

forward from the ADMP, due to the more advanced stage reached by those elements.

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP36	Industrial and Environmental Standards
RLP49	Pedestrian Networks
RLP51	Cycle Parking
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP56	Vehicle Parking
RLP65	External Lighting
RLP71	Water Supply, Sewerage & Drainage
RLP74	Provision of Space for Recycling
RLP90	Layout and Design of Development
RLP92	Accessibility

#### Braintree District Local Development Framework Core Strategy 2011

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

#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP37	Housing Type and Density
LPP45	Parking Provision
LPP55	Layout and Design of Development
LPP81	External Lighting

#### INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being presented to Committee, as the Development Manager, in consultation with the Chair and Vice Chair of the Planning



Committee concluded that the impacts of the development could be considered to be significant.

## SITE DESCRIPTION

The application site comprises a total site area of approximately 0.6 hectares and consists of a regular, rectangular shape block of land, located alongside Park Lane, Toppesfield. Most of the site is currently in use as an agricultural field, the eastern section of the site is enclosed within a post and rail fence. The site measures approximately 44m x 28m.

The eastern section of Park Lane, where it connects to the existing village, is adopted highway and where it crosses in front of the application site it becomes a private concrete road and public footpath.

The site comprises two elements; land associated with No 22 Park Lane and land that is associated with Berwick Hall Farm. The land associated with 22 Park Lane was the subject of an application to change its use from agricultural land to residential land in 2012; however this application was refused on grounds of the detrimental impact that the garden extension would have on the character of the countryside. The site contains an established hedgerow separating the two elements.

The application site lies outside but adjacent to the village envelope of Toppesfield as identified in the adopted and emerging Local Plan. Approximately 90m to the east of the site is the Toppesfield Conservation Area and approximately 90m to the south west of the application site is a grade II listed property known as Berwick Hall.

To the east of the site lies a row of semi-detached houses, and to the west are a group of farm buildings.

## PROPOSAL

This application is seeking outline planning permission for 7 self-build dwellings with all matters reserved for consideration at a later date. An indicative layout plan indicates that the seven dwellings would be detached and that an existing hedgerow feature would be retained. The layout plan indicates that each of the seven dwellings would be accessed from Park Lane, however this matter is not for consideration at this time.

The application is supported by a Design and Access Statement.

The Design and Access Statement indicates that they would be proposing to restrict the development and occupation of the self-build dwellings by way of a Unilateral Obligation which would identify sequential criteria which would establish who is eligible to purchase a plot. The criteria proposed would give priority firstly to people with a connection to the parish (resident, family or workplace); secondly to people with a District-wide connection and the plots

would only be available on the open-market if the first or second eligibility criteria cannot be met.

The obligation proposed does not include any commitment to the provision of affordable housing within the development.

### CONSULTATIONS

ECC Highways – From a highway and transportation perspective the Highway Authority has no comments to make on the proposal.

It is noted that public footpath 35 Toppesfield will need to be used to access the proposed dwellings. This is maintained only to footpath standard. There should be no deterioration in the condition of this footpath due to the construction of, or continued access to the proposed dwellings.

BDC Planning Policy – The subject site is outside the development boundary and outside the conservation area for Toppesfield village, which is Third Tier Village in the emerging Local Plan. These are a group of the smallest villages in the District which typically lack facilities for day-to-day needs, although Toppesfield does have a school, a pub and a volunteer-run grocery store/post office in the community hall. The Braintree Rural Services Survey states that the shop is unable to stock all goods required for day-to-day needs. The site is currently arable land with open views over the countryside across undulating land towards north.

Specialist advice should be sought for historic buildings advisor, landscape and design. If the decision maker is minded to give substantial weight to the Council's legal obligations to grant sufficient 'development permissions' for self-build, this would have to be considered against any impacts on local character, landscape and historic assets according to the planning balance. Any permissions based on giving weight to self-build will need to secure the plots for that use by condition, other conditions which should be considered are to restrict the size of the property and removing PD rights.

BDC Environmental Health – No objection and recommends conditions regarding hours of construction etc., no burning, details of piling and the submission of a dust and mud management scheme.

BDC Waste Services – No response received.

ECC Heritage – If realised, the proposed scheme would result in harm to both the Toppesfield Conservation Area and the heritage assets at Berwick Hall through adjoining the two separate entities which historically have always been experienced as independent of one another – each with their own setting. Although the moated site at Berwick Hall has historically had a close association with the village, it has always been an independent, self-contained entity, a quality which is key to its significance.

Due to the resultant harm which would arise, ECC Heritage cannot support this development and recommend refusal. Given the harm caused is less than substantial, the local planning authority should balance this harm against any public benefits which may arise from the scheme and only grant permission if they consider this to outweigh the harm identified.

Additional comments received 7.2.2018

Follow on Historic Buildings and Conservation Area Advice concerning an outline application for the erection of seven self-build dwellings. This consultation follows the provision of a Heritage Report submitted by the applicant in support of the application. It states the following:

Berwick Hall has historically been distinctly separate from the village of Toppesfield with the Conservation Area boundary demarcating the nineteenth century extent of the settlement. I remain of the opinion that the site performs an important role in preserving this separation despite later twentieth century sprawl with the detached relationship between the two still evident. The proposed scheme would result in harm to Berwick Hall and the Toppesfield Conservation Area by the coalescence of the two historically separated entities, each experienced within its own open agricultural setting.

Having regard for the additional information within the Heritage Report, I remain of the opinion that I cannot support this application and recommend refusal. Given the harm caused is less than substantial, the local planning authority should balance this harm against any public benefits which may arise from the scheme and only grant permission if they consider this to outweigh the harm identified.

Ramblers Association – Concern that footpaths 2 and 35 are not shown accurately on the submitted plans. Request that a designated footpath of 2m wide should be retained to ensure safety.

## REPRESENTATIONS

Toppesfield Parish Council- Comments were made on the following issues:

- The development is outside the village envelope.
- The width of the road at its narrowest is 3 metres wide
- The need for affordable housing
- The maintenance of the road and whether Essex County Council would adopt it.

33 representations have been made in support of the application, making the following comments:

- Support affordable housing in the village to support the local nursery
- Support housing development for local people so that they can remain in the village
- The development would fill a gap and provide small housing for first time buyers

- Would question the Heritage advice as the setting of Berwick hall has been compromised by recent developments.
- The village has a transport link via DART
- The application site is not in the setting of the conservation area.
- An increase in housing supply which is particularly pertinent given the Council's lack of a five year housing land supply.
- Small scale housing that would help support the Church, the village school, Little Chestnuts Pre-School, community shop, Post Office and community pub.
- It is a common characteristic of Toppesfield that development radiates from the historic core. This occurs along The Causeway, Church Lane, Park Lane and Stambourne Road. The proposed scheme would follow this characteristic.
- The development will allow the village to grow and develop
- Little or no impact on existing residents
- Low cost housing stock is a definite need.
- There should be a restriction ensuring that the properties remain affordable for local people

1 representation was made with the following comments:

- No objection subject to modifications to the access road which is currently not wide enough.
- Maintenance of the road, which is in a poor state of repair.
- Provision has not been made in the application for the parking of construction traffic and delivery vehicles to enable a clear access at all times.
- Concern about the impact on the existing water pressure.

## REPORT

### Principle of Development

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Council's development plan consists of the Braintree District Local Plan Review (2005) and the Core Strategy (2011).

The application site is located adjacent to the village envelope for Toppesfield and is as such within the countryside. The development therefore conflicts with the Policy RLP2 of the Local Plan Review and Policy CS5 of the Core Strategy which seeks to direct housing to within settlement boundaries. Policy CS5 states that beyond settlement limits development will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.

The Council is currently working on a Draft Local Plan, now referred to as the Publication Draft Local Plan. The Plan was approved by the Council on the

5th June for a Regulation 19 consultation and for submission to the Secretary of State. The public consultation ran from the 16th June to 28th July 2017. The Plan was submitted to the Planning Inspectorate in October 2017 for examination in public in early 2018.

The western part of this site was considered at Local Plan Sub-Committee on the 13th April 2016 as site TOPP411 and no allocation was made. The officer's report to the Local Plan Sub-Committee on 13<sup>th</sup> April 2016 stated:

*"17.11 Toppesfield is a village with limited services and is recognised as an 'other village' in the Core Strategy 2011..."*

*17.15 TOPP411 is isolated from the rest of the built form clusters. Currently an agricultural field between it and the yard/commercial built development. The road is single carriage between existing properties and would require significant upgrades. The size of the development and its poor relationship with the rest of the village make it detrimental to the character of Toppesfield."*

This proposed allocation has not since been pursued by the proposer. In accordance with paragraph 216 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

"The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given); The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given) and; The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)".

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

The Council acknowledges that in terms of what the NPPF requires, it does not currently have a deliverable 5 year supply of land for housing "...that meets the full objectively assessed need for market and affordable housing", together with an additional buffer of 5%, as required under paragraph 47 of the NPPF. The NPPF provides specific guidance in relation to the determination of planning applications in such circumstances, stating at paragraph 49 that 'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'.

This is further reinforced at paragraph 14 which identifies the presumption in favour of sustainable development as sitting at the heart of the NPPF, and that for decision-taking this means 'where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh

the benefits, when assessed against the policies in this Framework (NPPF) taken as a whole; or specific policies in this Framework indicate development should be restricted'.

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

Neither paragraph 14 or 49 NPPF fix the weight to be afforded to a conflict with policies of the Development Plan in circumstances where they are out of date. Weight is for the decision taker. Officers advise that in light of a lack of a five year supply of housing land, the second bullet point in the 'decision taking' section of paragraph 14 is triggered and as a consequence lesser weight can be given to policies which restrict the supply of housing. The lack of a 5 year housing land supply is therefore a material consideration which weighs in favour of the proposed development.

### Sustainable Development

The NPPF makes it clear that housing applications should be considered in the context of the presumption in favour of sustainable development. It identifies three dimensions to sustainable development: environmental, social and economic. These roles should not be considered in isolation, because they are mutually dependent.

The development will undoubtedly bring both social and economic benefits, albeit relative to the scale of the development. The development will provide housing and also affordable housing. In addition the development would provide benefits during the construction stage and thereafter with additional residents supporting the services/facilities within nearby towns/villages.

Para.55 of the NPPF states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the

vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. LPA's should avoid isolated new homes in the countryside unless there are special circumstances.

The strategy set out in the Publication Draft Local Plan is to concentrate growth in the most sustainable locations - that is, by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to nearby shops, services and employment opportunities. This means for the new Local Plan: "That the broad spatial strategy for the District should concentrate development in Braintree, planned new garden communities, Witham and the A12 corridor, and Halstead".

CS7 of the Core Strategy states that future development will be provided in accessible locations to reduce the need to travel. Toppesfield is an 'other village' within the settlement hierarchy within the adopted Core Strategy. The Publication Draft Local Plan classes the village as 'third tier'. These are the smallest villages in the District and lack most of the facilities required to meet day to day needs. They often have very poor public transport links and travel by private vehicle is usually required. When considering the tests of sustainable development, these will not normally be met by development within a third tier village.

Notwithstanding the settlement hierarchy it is necessary to consider the amenities/facilities that are available within the village. Toppesfield has a primary school, community run public house, community run village shop and community run post office and a church. The village is not served by regular public transport service, does not have a doctors surgery and most residents would be reliant on employment opportunities outside the village.

Development in this location would undoubtedly place reliance on travel by car and this weighs against the proposal in the overall planning balance.

To conclude, in terms of the settlement hierarchy in both the current development plan and the emerging plan, the site would not be considered a sustainable location for residential development. Furthermore despite the site's location adjacent to the existing village envelope, an extension of built form along Park Lane would be represent an encroachment of development into the countryside.

### Self-Build analysis

Paragraph 50 of the NPPF states that Local Planning Authorities should plan for a mix of housing including '*people wishing to build their own*'.

Custom and self-build housing also gained legislative support through the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). The District is required under the Act to maintain a self-build register and to '*give suitable development permission in respect of*

*enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period' i.e. to grant sufficient 'development permissions' to meet the demand for self-build.*

The Council's self-build register has 48 expressions of interest (December update) and there are currently only 2 self-build plots on the housing trajectory.

Publication draft local plan policy LPP37 Housing Type and Density is the only local policy the District has produced to meet the demand for self-build. Supporting text at paragraph 6.119 states that the Council supports self-build within development boundaries and Policy LPP37 states that large strategic sites of more than 500 dwellings should provide 2% of homes as self-build and custom housebuilding plots. Accounting for currently submitted allocations this would apply to 5 strategic sites, 4 in Braintree and 1 in Feering; and yield around 100 plots over the plan period. Due to the size of these strategic sites and lack of assurance that serviced plots could be delivered in early phases, it is unlikely that the Local Planning Authority can defend the delivery of self-build plots within the next five years.

In appeal decisions for other planning areas, Inspectors have given 'substantial weight' to self-build where local authorities were silent on self-build and unable to meet need, given the duty of the Council. Self-build plots could also bring benefits in terms of social dimensions of sustainable development.

Members are advised that the applicant's agent has indicated that a unilateral undertaking would be used to secure the dwellings were constructed as self-build dwellings and they have also indicated that sequential criteria would be used to establish who would be eligible to purchase a plot. Within a large number of the representations from local residents the assumption has been made that the dwelling would be affordable and would be ideal for first time buyers. The applicant's do not indicate that the dwellings would be affordable and as the scheme is for less than 10, the LPA would not be able to secure affordable housing through a s106 agreement.

### Design, Appearance and Layout

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development; it is indivisible from good planning and should contribute positively to making places better for people. Paragraph 58 of the NPPF states that developments should aim to 'establish a strong sense of place, using streetscapes and buildings to create attractive comfortable places to live, work and visit and respond to local character and history and reflect the identity of local surroundings and materials'.

Policy RLP9 of the Local Plan Review requires residential development to create a visually satisfactory environment and be in character with the site and relate to its surroundings. Policy RLP10 of the Local Plan Review considers density of development and acknowledges that densities of between 30-50



dwellings per hectare will be encouraged. Policy RLP90 of the Local Plan Review and policy CS9 of the Core Strategy seek a high standard of design and layout.

This application is seeking outline permission and therefore little information regarding the layout of the development has been provided at this time. The indicative layout plan indicates that the proposal comprises of 7 detached buildings, laid out in a linear pattern along Park Lane. As all matters are reserved no information is provided with regards the appearance and scale. The proposal would introduce housing along an undeveloped section of Park Lane. This gap in built form is a natural buffer to the village and should development be built within it, it would result in an unacceptable encroachment into the countryside eroding the open nature of this part of the District.

### Heritage and Character

Policy CS9 requires developers to respect and respond to the local context particularly where proposals affect the setting of a listed building. RLP 100 requires that alterations and other changes to a listed building do not harm the buildings setting and do not lead to the loss of historic and architectural elements of special importance. These Local Plan policies are considered to be consistent with NPPF paragraphs 131 and 132 which emphasizes the contribution of heritage assets and that they can be harmed or lost by alterations within their setting.

As recognised by the NPPF, heritage assets are an irreplaceable resource, the significance of which can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Any harm or loss requires clear and convincing justification with great weight given to the asset's conservation – the more important the asset, the greater the weight should be given. Accordingly, the NPPF requires applicants to describe the significance of any heritage assets affected, including any contribution made by their setting.

The setting of a building, whilst not an asset in itself, can contribute to the significance of the asset. The Practice Guidance identifies setting as '*The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*'

The site of the proposed is situated to the west of the *Toppesfield Conservation Area* and in close proximity to *Berwick Hall*, a Grade II listed early seventeenth century house (HE Ref: 1122992) with associated curtilage listed structures.

If realised, the proposed scheme would result in harm to both the *Toppesfield Conservation Area* and the heritage assets at *Berwick Hall* through joining the two separate entities which historically have always been experienced as

independent of one another – each with their own setting. Although the moated site at Berwick Hall has historically had a close association with the village, it has always been an independent, self-contained entity, a quality which is key to its significance. Moreover, there is currently a definite terminus to existing development on Park Lane with No. 22 (north side) and No. 21 (south side) facing each other at the end of a run of development on both sides of the road, beyond which is open countryside.

Up until the early twentieth century Toppesfield had a relatively tight plan form centred on and around the staggered intersection of routes aligned roughly NS/EW. The proposed dwellings would further the uncharacteristic sprawling linear ribbon of development which now follows these routes outward. This is not considered a sustainable way in which to achieve housing growth in villages such as Toppesfield.

In addition to joining the village with Berwick Hall in this manner, the development would also further detach Toppesfield from the agricultural setting with which it has historically been associated and experienced within. The point of transition from open countryside to village would be set a further 250m from the Conservation Area boundary which denotes the historic village core. Whilst it is acknowledge that Park Lane has limited vehicular access it is a public right of way which follows an historic route. This footpath allows members of the public to experience the Berwick Hall group and the village within a relatively unaltered setting – despite later twentieth century encroachment.

Paragraph 134 of the NPPF indicates that where harm to the significance of a heritage asset is ‘less than substantial’ this harm should be weighed against the public benefits of the proposal.

The benefits of the proposal are the modest contribution 7 dwellings would make to meeting the shortfall in housing land supply, with provision in a form (self-build) specifically encouraged through the Framework and legislation. The economic benefits are difficult to quantify as the prospective owners may “self-build” rather than create much employment in the construction industry. The environmental benefits are little more than a proposed landscape buffer indicated to the rear of the gardens and no details have been provided as to whether this would bring biodiversity benefits. The additional housing would add support to sustaining local services, but the benefit would be very limited.

Against these benefits, the proposal would result in the extension of development along the north side of Park Lane, obliterating the undeveloped break between Berwick Hall and the village edge which is so important to its historic setting within the countryside and compromising its historic association with the agricultural land that it sits within.

The proposal would also extend development into the countryside which would further distance the countryside from the historic core of the settlement, further detracting from the way in which the Conservation Area is approached along the public route from the west, and further distorting the tight plan form

of the historic core of the village, all to the detriment of the character and appearance of the Conservation Area.

In these terms, the harm to designated heritage assets is considered to outweigh the public benefits of the development.

#### Impact on Neighbour Amenities

The NPPF requires a good standard of amenity for all existing and future occupiers of land and buildings. Policy RLP90 of the Local Plan Review requires no undue or unacceptable impact on the amenity of any nearby residential properties.

The site is well distanced in the main from residential properties, apart from 22 Park Lane which is immediately to the east of the application site. It is not considered that the proposed development would give rise to any unacceptable impact on the amenity of this neighbouring property, due to its layout and relationship with the neighbouring property.

#### Highway Issues

No details are provided with regards access to the 7 new properties. The indicative landscape plan indicates that each property would have a driveway and that access would be from Park Lane. It is noted that public footpath 35 Toppesfield will need to be used to access the proposed dwellings. Whilst no objection is raised by ECC Highways to the use of public footpath to access these additional dwelling, this is maintained only to footpath standard, and they has indicated that there should be no deterioration in the condition of this footpath due to the construction of, or continued access to the proposed dwellings.

#### CONCLUSION AND PLANNING BALANCE

As set out above the development of new housing will always bring benefits, but those benefits do not always outweigh all other considerations. Para. 49 of the NPPF makes it clear that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up to date if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites. The Framework is clear in its instruction at paragraph 14 that for decision taking, where relevant development plan policies are out of date this means granting planning permission unless i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole; or ii) specific policies of the Framework indicate development should be restricted.

In this particular case Officers have concluded that specific policies of the Framework (e.g. designated heritage assets, flood risk) do indicate that

development at this site should be restricted, due to the harm indicated to the setting of the heritage asset as outlined earlier in this report.

However, even if Officers had reached a different conclusion on the “heritage balance”, Officers would still need to consider the proposals in the context of the “tilted balance” to assess whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against policies in the NPPF taken as a whole.

The benefits of the development have been outlined earlier in the report (Heritage and Character section).

Against these benefits, the development of a site in a location which is adjacent to a village devoid of services for day to day living would place an undeniable reliance on travel by private car, contrary to the aspirations of the NPPF, Policy CS7 of the Core Strategy and Policy RLP53 of the Local Plan Review.

In addition the proposal would lead to the loss of a gap between the existing edge of the village envelope and the existing farm buildings, which includes a heritage asset, impacting upon the visual amenity afforded to the countryside location and the character of the settlement, conflicting with the NPPF, policies CS5, CS8 and CS9 of the Core Strategy and policies RLP2, RLP9, RLP90, RLP 95 and RLP 100 of the Local Plan Review.

In this case it is considered that the adverse impacts significantly and demonstrably outweigh the benefits and accordingly the proposal fails to achieve sustainable development and planning permission should be refused.

### RECOMMENDATION

It is RECOMMENDED that the following decision be made:  
Application REFUSED for the following reasons:-

- 1 The proposals would involve the extension of existing development on the village fringe towards and abutting development associated with Park Field House and Berwick Hall to the south west of the site. In so doing, the development would completely infill an existing "break" which serves an important function in providing the historic context and setting for both the Grade II listed Berwick Hall, and the Toppesfield Conservation Area. The loss of the distinct separation results in a change to the way that both are experienced, damaging the close association between Berwick Hall and the agricultural land that it is set within and harming both its setting and the character and appearance of the Conservation Area. In these respects the development would conflict with Policies RLP95 and RLP100 of the adopted Braintree Local Plan Review and Policy CS9 of the adopted Core Strategy and this harm is considered to outweigh the public benefits of the proposal.

- 2 The Council consider that the application of restrictive policies involving heritage indicate that development should be refused here, in accordance with footnote 9 to Paragraph 14 of the National Planning Policy Framework (NPPF), as set out in the reasons for refusal above.

Further or alternatively, even if the tilted balance were to apply under paragraph 14 of the NPPF, whilst the Council acknowledges that it cannot currently demonstrate a 5 year supply of housing land, the Council considers that the adverse impacts of granting permission here would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

In this particular case, the Council recognises the benefits of allowing development but concludes that the adverse impacts of the development, as set out below, significantly and demonstrably outweigh the benefits:

- The poor accessibility from the site to the day to day services and facilities that prospective residents would require access to, resulting in reliance on travel by car to such facilities, contrary to Policy RLP53 of the adopted Braintree Local Plan Review and Policy CS7 of the adopted Core Strategy.
- The development would result in the loss of the gap between the existing village envelope and existing farm buildings, to the detriment of the open character of the countryside and the appearance of the settlement edge, contrary to Policies RLP2 and RLP9 of the adopted Braintree Local Plan Review and Policies CS5 and CS8 of the adopted Core Strategy.
- The proposed development would infill the existing "break" which separates Toppesfield village from the Grade II listed Berwick Hall, causing harm to both the setting of Berwick Hall and to the character and appearance of Toppesfield Conservation Area, contrary to policies RLP95 and RLP100 of the adopted Braintree Local Plan Review and Policy CS9 of the adopted Core Strategy.

### SUBMITTED PLANS

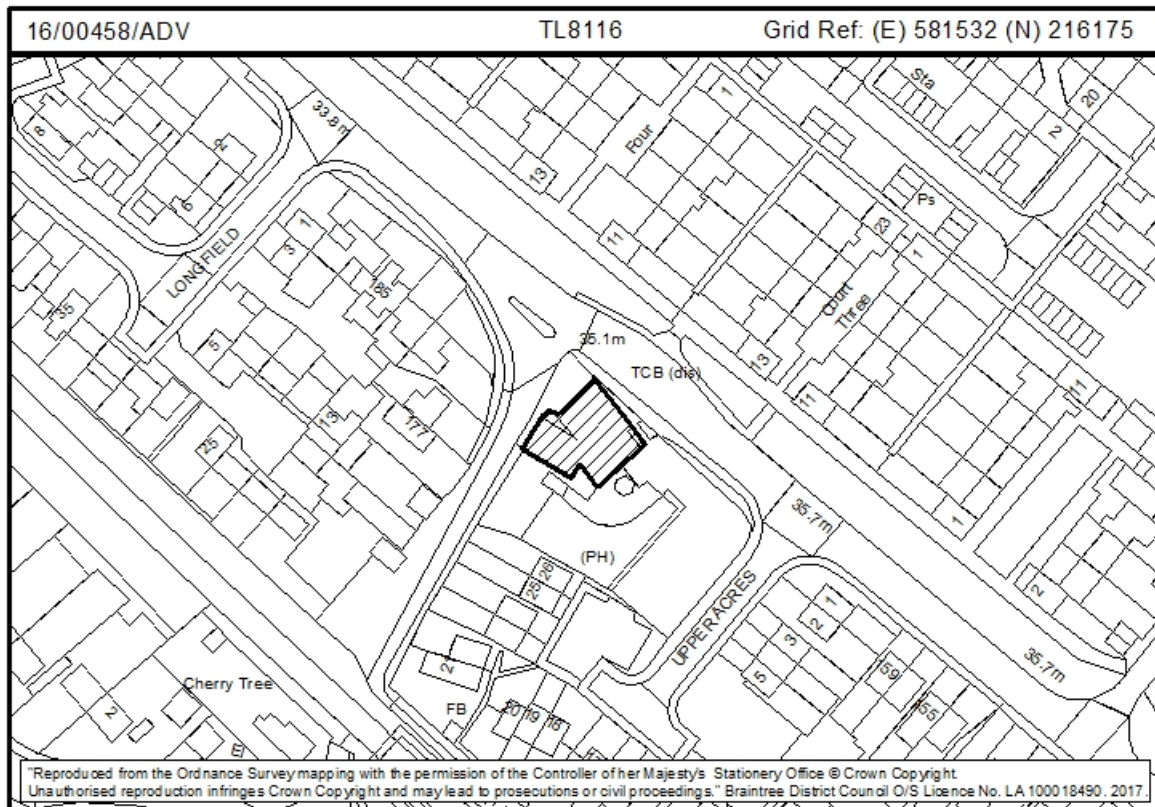
Location Plan	
Proposed Site Plan	Plan Ref: 001
Landscape Masterplan	Plan Ref: 002
Existing Site Plan	Plan Ref: 003

TESSA LAMBERT  
DEVELOPMENT MANAGER

PART B

APPLICATION NO: 16/00458/ADV DATE: 18.03.16  
 VALID:  
 APPLICANT: Punch Taverns  
 Ms Elisa Blackburn, Jubilee House, Second Avenue, Burton  
 Upon Trent, DE14 2WF  
 AGENT: SR Signs Ltd  
 Ms Elisa Blackburn, 12 Wortley Moor Lane, Leeds, LS12  
 4HX  
 DESCRIPTION: Display of illuminated and non-illuminated signage to the  
 exterior of the building  
 LOCATION: The Cherry Tree, Crossing Road, Witham, Essex, CM8  
 2NW

For more information about this Application please contact:  
 Mrs Liz Williamson on:- 01376 551414 Ext. 2506  
 or by e-mail to: [liz.williamson@braintree.gov.uk](mailto:liz.williamson@braintree.gov.uk)



## SITE HISTORY

87/01370/P	Proposed alterations, single storey extensions and erection of garage	Granted	23.09.87
16/00460/FUL	Installation of a new kitchen ventilation system with a vertical discharge roof terminal to the rear of the building. Erection of a new picket fence to be installed surrounding the external seating area including bound gravel to this area. Replacement of windows with white UPVC to match the style of the existing windows.	Pending Decision	

## POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5<sup>th</sup> June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16<sup>th</sup> June to 28<sup>th</sup> July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9<sup>th</sup> October 2017.

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

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

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

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

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

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

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP3	Development within Town Development Boundaries and Village Envelopes
RLP90	Layout and Design of Development
RLP107	Outdoor Advertisements

#### Braintree District Local Development Framework Core Strategy 2011

CS9	Built and Historic Environment
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#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP38	Residential Alterations, Extensions and Outbuildings
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development

#### INTRODUCTION/REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought before the Planning Committee due to an objection received from the Town Council contrary to the Officer recommendation for approval.



## SITE DESCRIPTION

The Cherry Tree Public House is located along Cressing Road in Witham, close to the junction with Upper Acres. The application site is located within the town development boundary of Witham. The building is not listed and is not situated within a Conservation Area.

## PROPOSAL

The application seeks the retention of a number of replacement illuminated and non-illuminated signage to the exterior of the building. The proposed replacement signage can be summarised as follows:

Sign Type A – 2 x single sided replacement fascia signs, two sets of Perspex letters finished in gold and trough lights to illuminate. The signs consist of a red background with gold lettering;

Sign Type B – 1 x new A1 poster case. The poster case has a black surround with a red background and white and black lettering;

Sign Type C – 2 x new 1500mm x 1m poster cases. The sign consists of a red background with white and black lettering;

Sign Type D – 1 x new double legged, double sided post sign with trough lighting to illuminate. The sign consists of a red background with gold lettering for 'The Cheery Tree' and white and black letter for the remainder of the sign;

Sign Type E – 1 x new double legged, double sided post sign with trough lighting to illuminate. The sign consists of a red background with white and black lettering;

Sign Type F – 1 x new single sided tray disclaimer sign. The sign consists of a red background with white lettering;

Up lighting is already in place and the application seeks to introduce ten new LED lantern style floodlights and ten new LED floodlights to illuminate the proposed signage on the front and side elevations of the building.

## CONSULTATIONS

Essex County Highways – No comments received

Witham Town Council – Objection

Witham Town Council recommends refusal of the application on the grounds that the proposed signage would have a detrimental impact upon the street scene. Councillors requested a revised proposal more in keeping with the gateway location of the premises.

## REPRESENTATIONS

A site notice was displayed at the front of the property but no representations have been received.

## REPORT

Advertisements fall under a separate statutory control from development, the Town and Country Planning (Control of Advertisements) Regulations 2007. In determining applications for express consent the local planning authority may only consider two issues, the interests of amenity and public safety. Amenity refers to the effect upon the visual and aural amenity in the immediate vicinity and public safety refers to the effect on traffic or transport on land, over water or in the air.

### Amenity

The visual amenity of an area where signs are to be displayed is a material consideration as set out in Regulation 3 of Advertising Regulations 2007.

Policy CS9 of the Braintree District Core Strategy states that the Council will promote and secure in the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment in order to respect and respond to the local context, where development affects the setting of historic or important buildings, Conservation Area and areas of highest archaeological and landscape sensitivity.

Policy RLP90 of the Braintree District Local Plan Review seeks a high standard of layout and design in all development. RLP107 of the Braintree District Local Plan Review states that inter alia outdoor advertisements should be visually subordinate to the features of the building on which it is located and that the proliferation of advertisements will be opposed.

In this case, the application seeks approval for the retention of a number of replacement non-illuminated and illuminated signs. The amount of signage on the application site has increased (compared to what was previously on site), however it is considered that the proposed signage is acceptable and is not out of keeping with the character and appearance of the existing building or the street scene. While the concerns raised by Witham Town Council are noted, it is considered that the advertisements do not have a detrimental impact upon visual amenity.

In the interest of visual amenity and in order to prevent light pollution, a condition is recommended to require the trough and floodlighting identified on the submitted plans to be directed downwards to the ground and permanently retained as such.

## Highways Safety

The Advertising Regulations 2007 outline that any advertisement should be considered in relation to the safety of a person using a highway. Policy RLP107 of the Braintree District Local Plan Review also states that the public safety, including traffic safety, will be accorded to a high priority in decision making.

Essex County Council Highways were consulted on the application however no consultation response has been received. In this case, it is considered that the advertisements do not obstruct visibility splays or vehicle movement or cause a distraction of motorists. In the absence of an objection from Essex County Council Highways, it is considered that the advertisements do not have a detrimental impact upon highway safety.

## CONCLUSION

It is considered that the proposal would not have a detrimental impact upon visual amenity or highway safety. It is therefore recommended that Advertisement Consent is granted.

## RECOMMENDATION

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

## APPROVED PLANS

Location Plan

Photograph

Signage Details                      Plan Ref: Page 1

Signage Details                      Plan Ref: Page 2

Signage Details                      Plan Ref: Page 3

- 1 The consent hereby granted shall expire at the end of a period of 5 years from the date hereof.

Reason

This condition is imposed pursuant to the Town & Country Planning (Control of Advertisements) (England) Regulations 2007 and in the interests of visual amenity.

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

Reason

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

- 3 The trough light and floodlighting hereby approved and as identified on the signage details plan received on 7th February 2018 shall be directed to face downwards to the ground and permanently retained as such to the satisfaction of the Local Planning Authority.

Reason

In the interest of visual amenity and to prevent light pollution.

INFORMATION TO APPLICANT

- 1 Your attention is drawn to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the need to comply with the following:
  - (i) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
  - (ii) No advertisement shall be sited or displayed so as to:
    - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
    - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
    - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
  - (iii) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
  - (iv) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
  - (v) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

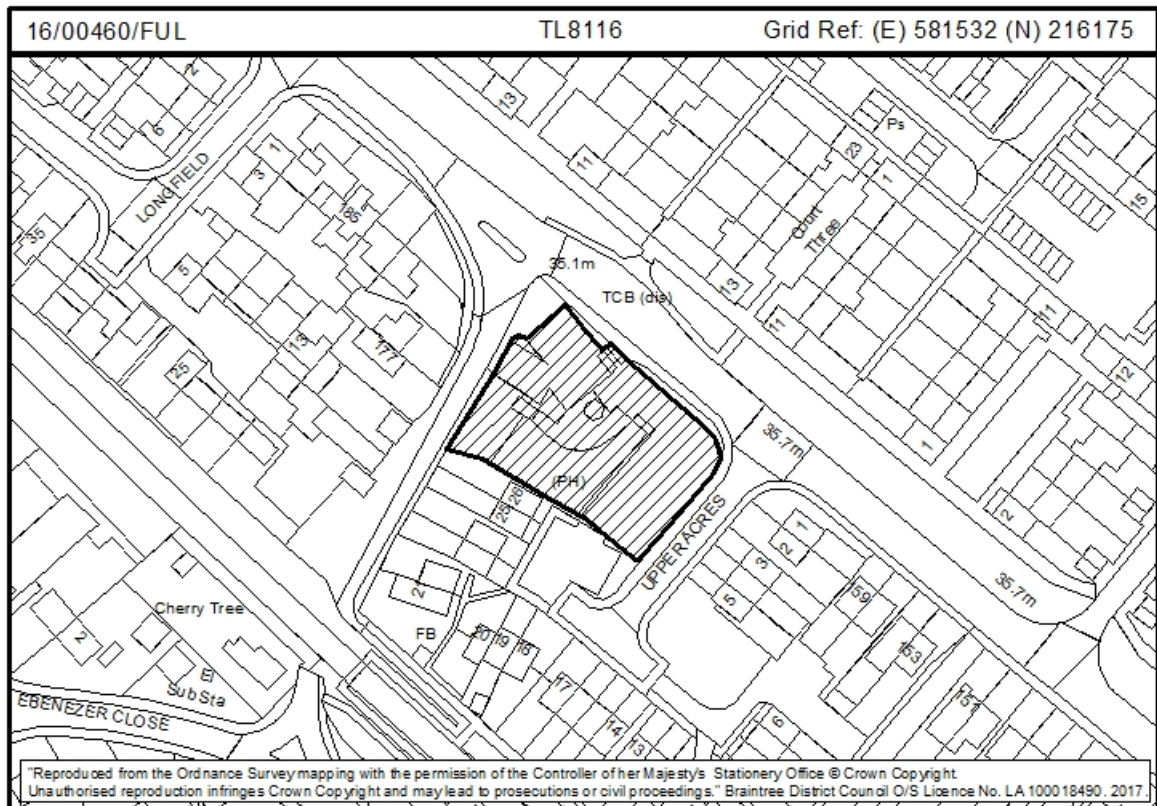
TESSA LAMBERT  
DEVELOPMENT MANAGER

# AGENDA ITEM NUMBER 5d

## PART B

APPLICATION NO: 16/00460/FUL DATE: 24.03.16  
 VALID:  
 APPLICANT: Punch Taverns  
 Jubilee House, Second Avenue, Burton Upon Trent,  
 Staffordshire, DE14 2WF  
 AGENT: Concept IDL Ltd  
 Mr Lyndsey Bennett, Suite 1 Sheffield Business Park Lt,  
 Sheffield Business Centre, Europa Link, Sheffield, S9 1XZ  
 DESCRIPTION: Installation of a new kitchen ventilation system with a  
 vertical discharge roof terminal to the rear of the building.  
 Erection of a new picket fence to be installed surrounding  
 the external seating area including bound gravel to this  
 area. Replacement of windows with white UPVC to match  
 the style of the existing windows.  
 LOCATION: The Cherry Tree, Crossing Road, Witham, Essex, CM8  
 2NW

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



## SITE HISTORY

87/01370/P	Proposed alterations, single storey extensions and erection of garage	Granted	23.09.87
16/00458/ADV	Display of illuminated and non-illuminated signage to the exterior of the building	Pending Decision	

## POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5<sup>th</sup> June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16<sup>th</sup> June to 28<sup>th</sup> July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9<sup>th</sup> October 2017.

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

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

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

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

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

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

forward from the ADMP, due to the more advanced stage reached by those elements.

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP3            Development within Town Development Boundaries and Village  
                         Envelopes  
RLP90          Layout and Design of Development

#### Braintree District Local Development Framework Core Strategy 2011

CS9            Built and Historic Environment

#### Braintree District Publication Draft Local Plan 2017

SP1            Presumption in Favour of Sustainable Development  
SP6            Place Shaping Principles  
LPP1           Development Boundaries  
LPP38          Residential Alterations, Extensions and Outbuildings  
LPP45          Parking Provision  
LPP50          Built and Historic Environment  
LPP55          Layout and Design of Development

#### Other Material Considerations

None

#### INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is brought before the Planning Committee as the application is related to application reference 16/00458/ADV which seeks permission for the retention of new advertisements installed at the site. Witham Town Council objected to the retention of the advertisements and given that this proposal relates to the wider refurbishment of the public house, this application is being referred to members for completeness.

#### SITE DESCRIPTION

The site is located in a prominent position on the outskirts of Witham. The property is sited on the edge of a residential area, adjacent Crossing Road, which is a busy highway forming the main access route from Braintree into Witham. The Cherry Tree is a detached property which is currently used as a Public House, with a large car park and garden area to the side/rear. It is

located within the town development boundary of Witham, but outside of the Conservation Area.

## PROPOSAL

The application seeks permission for a new kitchen ventilation system with a vertical discharge roof terminal to the rear of the building. The application also seeks permission for a picket fence surrounding the external seating area and for UPVC fenestration that has been installed to replace the existing windows. Since the application was submitted the above development has been completed and therefore the application now effectively seeks permission for the retention of the above development.

## CONSULTATIONS

### Environmental Health Officer

The consultation response from Environmental Health states that typically the requirement for an external flue requires that there is odour filtration, termination of ductwork at least 1m above the eaves height and noise levels to be 10db below background noise level. It appears that the proposed system provides none of these and is therefore not demonstrating best practicable means to control odour or noise.

However, there have been no complaints from neighbouring residential properties in the 18 months that the extraction unit has been in situ. Therefore, Environmental Health have stated that if planning are minded to approve the application then Environmental Health would resolve any complaints using statutory nuisance legislation.

## REPRESENTATIONS

A site notice was displayed at the front of the property and residents were notified of the proposal but no representations were received.

## REPORT

### Principle of Development

Both the NPPF and the NPPG require all new forms of development to be well designed. The NPPG (paras. 23 – 28) elaborates on this in a residential context, by requiring Local Planning Authorities to consider whether the layout, scale, form, details and materials come together to “help achieve good design and connected objectives”.

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



landscaping". In addition to this, Policy RLP90 of the Braintree District Local Plan Review and Policy LPP 55 of the emerging Braintree District Publication Draft Local Plan require designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping. Policy LPP 50 of the emerging Braintree District Publication Draft Local Plan seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.

In this case, there are no objections in principle to the proposal subject to satisfactory design.

#### Design, Appearance and Layout

As part of the proposal, a new kitchen ventilation system has been installed. This includes an external stainless steel extraction unit located on the rear of the property. Due to the close proximity of residential properties a flue is required by the Environmental Health Department to deal effectively with odour discharge. The flue is located adjacent the kitchen at the rear of the property. The flue is stainless steel and partially hidden from view. The only element that can be seen from a public viewpoint is the cap to the flue which can be seen above the ridge height of the premises. However, views of this are limited.

Part of the proposal is to retain the white timber picket fence which surrounds the external seating area. The fenced area separates the external seating from the designated parking area and measures 1m in height. The area has been surface treated with bound gravel. The windows within the property have been replaced with white UPVC. The previous windows were timber, which had become rotten.

In this case and having regard to the location of the ventilation system/flue at the rear of the building, it is considered that the proposal would be in keeping with the existing property, as would the picket fence, replacement windows and works to the car park. As such, it is considered that the proposal does not have a detrimental impact on the character of the existing property, or the wider character of the area.

#### Impact on Neighbour Amenity

Taking into account the nature of the proposed works, it is considered that the proposal would not have a detrimental impact on neighbouring residential amenity. It is therefore considered that the proposal is compliant with the abovementioned policies in this regard.

### Highway Issues

There are existing parking arrangements that are utilised by the premises. The application does not reduce the amount or availability of parking at the premises and no objections have been received in this regard. It is therefore considered that there would be no highway implications associated with this application.

### CONCLUSION

It is not considered that the proposal would have a detrimental impact upon the character and appearance of the host building or the wider street scene or have a detrimental impact upon neighbouring residential amenity.

### 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

Block Plan

Proposed Site Plan

Plan Ref: 2021-02

Version: D

Proposed Elevations

Plan Ref: 2021-04 Sheet 1

Proposed Elevations

Plan Ref: 2021-04 Sheet 2

- 1 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.

- 2 The external materials and finishes shall be as indicated on the approved plans and/or submitted application form.

Reason

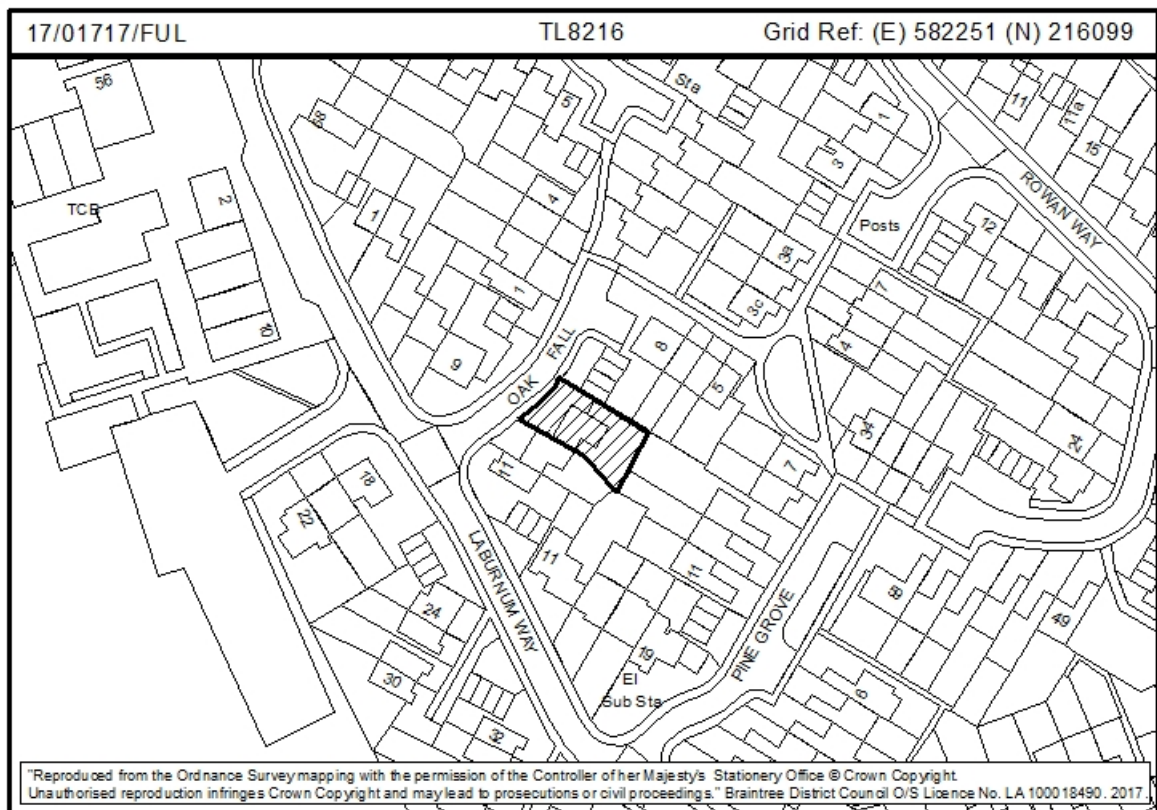
To ensure that the development does not prejudice the appearance of the locality.

TESSA LAMBERT  
DEVELOPMENT MANAGER

PART B

APPLICATION 17/01717/FUL DATE 18.09.17  
 NO: VALID:  
 APPLICANT: Mr Hawes  
 9 Oak Fall, Witham, Essex, CM8 2LF  
 AGENT: Mr Bodjawah  
 95 Haygreen Road, Witham, Essex  
 DESCRIPTION: Erection of double storey flank extension with single storey  
 front and rear extensions  
 LOCATION: 9 Oak Fall, Witham, Essex, CM8 2LF

For more information about this Application please contact:  
 Mrs Liz Williamson on:- 01376 551414 Ext. 2506  
 or by e-mail to: [liz.williamson@braintree.gov.uk](mailto:liz.williamson@braintree.gov.uk)



## SITE HISTORY

79/00126/P	Erection of tilt over, wind up mast to carry amateur radio aerals.	Granted
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## POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5<sup>th</sup> June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16<sup>th</sup> June to 28<sup>th</sup> July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9<sup>th</sup> October 2017.

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

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

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

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

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

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

## National Planning Guidance

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

## Braintree District Local Plan Review 2005

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

## Braintree District Local Development Framework Core Strategy 2011

CS9	Built and Historic Environment
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## Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP38	Residential Alterations, Extensions and Outbuildings
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development

## Other Material Considerations

None

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

The application is brought before the Planning Committee because an objection has been received from Witham Town Council.

## SITE DESCRIPTION

9 Oak Fall is an end terraced property within the town development boundary of Witham. The dwelling is set back from the other properties within the terrace which creates a staggered appearance within the street scene. The property benefits from parking to the front of the property and also has an integral garage. The property has a modest rear amenity area which can be accessed via the side of the property. To the side of the property is a narrow footpath which provides access to several properties' rear amenity areas. The property is also located adjacent to a block of four garages.

## PROPOSAL

Planning permission was originally sought for a two storey side and two storey rear extension. However during the assessment of the application the proposals have been subject to revisions in consultation with officers where two sets of amended plans have been submitted for consideration. The revised proposal now comprises the erection of a two storey side extension and single storey rear extension. The two storey element would measure 3m in width and would be stepped back from the front elevation by 1.6m which would extend to the rear elevation. The single storey rear extension would measure 2.5m in width with a depth of 3.1m. It is proposed to extend at the front of the property to increase the size of the existing ground floor living accommodation and existing garage by 1m in depth.

## CONSULTATIONS

### Witham Town Council

Submitted Proposal - Object to the application:

Recommended refusal on the grounds that the proposals would result in an over massing of the site and a significant variation from the existing street scene.

Revised Proposal – Object to the application:

Recommended refusal on the grounds that the revised proposals have not taken significant steps to address the proportion of the building in relation to the width of the site, and the revised proposals are now showing an altered and varying roof ridge height would cause a further detriment to the street scene.

Revised Proposal – Object to the application:

The Town Council wished to maintain their objection to the application on the basis that no material changes have been made to address the original concerns raised. The Town Council considered that the side extension is simply too large and constitutes an over massing of the site. Specific concerns were raised over the numerous varying roof heights, and the impact of this on the street scene.

## REPRESENTATIONS

One objection was raised from 9 Pine Grove with the summarised objection:

The proposal will result in a significant “overlook” into the property and garden of 9 Pine Grove. The property at 9 Oak Fall does not have a large garden. Extending to the side and rear of the property will be overbearing and encroach into the privacy of 9 Pine Grove.

## REPORT

### Principle of Development

Both the NPPF and the NPPG require all new forms of development to be well designed. The NPPG (paras. 23 – 28) elaborates on this in a residential context, by requiring Local Planning Authorities to consider whether the layout, scale, form, details and materials come together to “help achieve good design and connected objectives”. In this case the site lies within the defined development boundary of Witham. In this location, as set out in Policies RLP3, RLP17 and RLP90 of the Braintree District Local Plan Review, Policies LPP 38, LPP 50 and LPP 55 of the emerging Braintree District Publication Draft Local Plan and Policy CS9 of the Braintree District Core Strategy, development will only be permitted where it satisfies amenity, design, and highway criteria and where it can take place without detriment to the existing character of the area and without unacceptable impact on the amenities of adjoining residential properties, including on privacy, overshadowing and loss of light.

Having considered the proposals against these policies and guidance, it is considered that the principle of an extension to a dwelling in this location is acceptable subject to compliance with the policy criteria.

### Design, Appearance and Layout

The properties within the immediate vicinity have been altered to include garage conversions, front porches and side extensions.

The proposal is a revised scheme which has been reduced to now include a single storey rear extension rather than the two storey extension originally proposed. The side extension has also been stepped back from the front elevation to appear more in keeping with the existing street scene. The proposed materials would be face brickwork, white UPVC fenestration and roof tiles which would all be in keeping with the host dwelling and the surrounding area.

Witham Town Council raised concerns regarding the proposal and the impact on the street scene. While these concerns are noted, it is considered that the proposed step back from the front elevation ensures that the proposed extension appears subordinate to the host dwelling. It is considered that the extension would still represent a large addition to the existing terrace of properties. However, with the aforementioned revisions, it is considered on balance that the extension would not have a detrimental impact on the character of the dwelling or the on the street scene. It is therefore considered that the proposal is acceptable in this regard.

### Impact on Neighbour Amenity

A core principle of the National Planning Policy Framework is that development should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policies RLP17 and RLP90 of the Braintree District Local Plan Review state that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.

While the representation from 9 Pine Grove and the concerns raised are noted, it is not considered that the proposed two storey side extension at 9 Oak Fall would have a detrimental impact on 9 Pine Grove in terms of overlooking. Following discussions with the applicant, the proposed two storey side extension to the rear has been reduced to a single storey extension to avoid overlooking/overbearing on 10 Oak Fall.

Therefore, due to the size, scale and positioning of the extension and taking into account the objections received, it is considered the revised proposal would not give rise to detrimental impacts upon neighbouring amenity by virtue of overlooking, loss of natural light, overshadowing or overbearing. As such, it is considered the proposal is acceptable in this regard.

### Highway Issues

There is currently off road parking to the front of the property that remains unaffected by the proposal. Therefore, it is considered that there are no highways impacts associated with this development.

### CONCLUSION

In this case, it is considered that the revised proposal is acceptable in terms of design and highway considerations and there would be no detrimental impacts upon neighbouring residential amenity. The proposal is considered to be in keeping with the host and the character of the area.

### RECOMMENDATION

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

### APPROVED PLANS

Location Plan  
Proposed Plans

Plan Ref: 100  
Plan Ref: 300

Version: B

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



Reason

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

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

Reason

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

- 3 The external materials and finishes shall be as indicated on the approved plans and/or submitted application form.

Reason

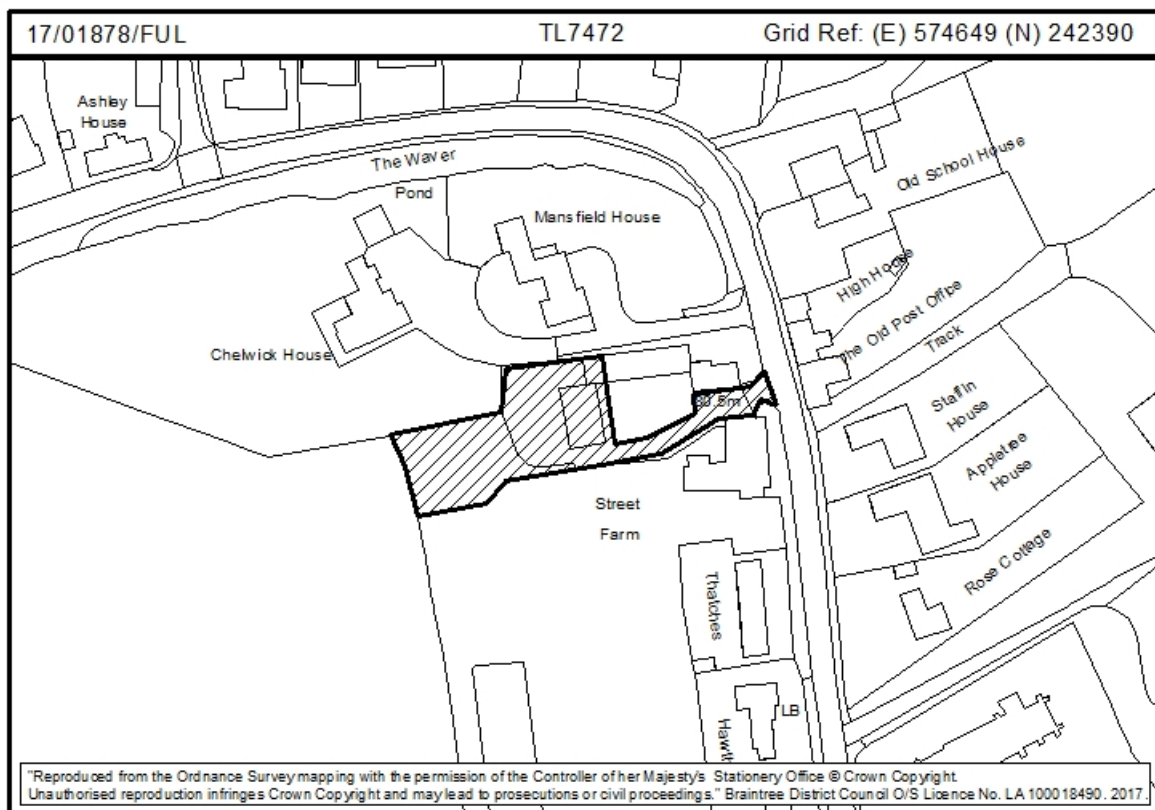
To ensure that the development does not prejudice the appearance of the locality.

TESSA LAMBERT  
DEVELOPMENT MANAGER

PART B

APPLICATION NO: 17/01878/FUL DATE: 19.10.17  
 VALID:  
 APPLICANT: Mr Nigel McCrea  
 The Barn, The Street, Ashen, Essex, CO10 8JN,  
 AGENT: Mr John Baugh  
 John Baugh Ltd, 67 Church Lane, Bocking, Braintree,  
 Essex, CM7 5SD  
 DESCRIPTION: Proposed change of use of part of storage shed to  
 residential, together with minor amendments to fenestration  
 to existing consent to extend living accommodation.  
 Proposed details of boundary treatment between Street  
 Farm and The Barn.  
 LOCATION: The Barn, The Street, Ashen, Essex, CO10 8JN

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



## SITE HISTORY

17/01879/LBC	Proposed change of use of part of storage shed to residential, together with minor amendments to fenestration to existing consent to extend living accommodation. Proposed details of boundary treatment between Street Farm and The Barn.	Pending Decision	
04/00113/COU	Continued use of barn as dwelling	Granted	11.05.04
94/00982/LBC	Proposed two storey extension and alterations to existing dwelling	Granted	20.02.95
98/01500/LBC	Erection of extension and alterations to existing barn to form residential accommodation	Granted	03.06.99

## POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5<sup>th</sup> June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16<sup>th</sup> June to 28<sup>th</sup> July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9<sup>th</sup> October 2017.

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

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

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

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

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

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

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP3	Development within Town Development Boundaries and Village Envelopes
RLP17	Extensions and Alterations to Dwellings in Towns and Villages
RLP56	Vehicle Parking
RLP90	Layout and Design of Development
RLP100	Alterations and Extensions and Changes of Use to Listed Buildings and their settings

#### Braintree District Local Development Framework Core Strategy 2011

CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment

#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP38	Residential Alterations, Extensions and Outbuildings
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings

## Other Material Considerations

Essex Design Guide

- Page 81 – 109 – Design

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being presented to the Planning Committee as the Agent is an elected member.

## SITE DESCRIPTION

The application site consists of an existing black weatherboarded barn building, within the curtilage of the Grade II\* listed Street Farmhouse. The site is located within both the village envelope and Conservation Area of Ashen. Listed building consent has been granted to allow the barn to be used for residential purposes; and in 2004 planning permission was granted for the continued use of the barn for residential purposes. It is understood that this residential use has been continued since 2004.

This application is accompanied by an application for listed building consent, ref. 17/01879/LBC.

## PROPOSAL

The application seeks householder planning permission for several proposals including: the conversion of an existing store attached to the barn into part of the residential dwelling; alterations to fenestration on the building; the provision of boundary treatments between The Barn and Street Farm; and the erection of a wall in front of The Barn.

## CONSULTATIONS

Historic England – No Comments.

Historic Buildings Consultant – No Objections following revisions.

Parish Council – No Comments.

## REPRESENTATIONS

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

## REPORT

### Principle of Development

The site is located within the village envelope of Ashen, where according to Policy RLP3 of the Braintree District Local Plan Review and LPP1 of the Braintree District Publication Draft Local Plan, the principle of development is considered to be acceptable.

### Impact on Grade II\* Listed Building & Design, Appearance and Layout

The site is located within the curtilage of a Grade II\* listed building known as Street Farm.

Policy RLP100 of the Braintree District Local Plan Review and policy LPP 60 of the Braintree District Publication Draft Local Plan state development which could impact upon the setting of a listed building, a locally listed heritage asset, or an otherwise designated heritage asset will only be permitted if the proposed works or uses do not cause harm to the setting, character, structural stability and fabric of the building, and do not result in the loss of or significant damage to the building's historic and architectural elements of special importance, and use appropriate materials and finishes.

The NPPF allows for alterations and works to a listed building. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. However where the development or works would lead to "substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss".

There is no objection to the conversion of the existing store to residential use given the existing residential use of the site.

The Historic Buildings Consultant considers that the conversion of the existing store would not result in harm to the listed building, and that the proposed amendments to the fenestration detailing on the building are acceptable.

The Historic Buildings Consultant raised a concern in relation to the separation of the farmyard in principle. The type of boundary treatments proposed, including close boarded fencing between The Barn and Street Farm; and a brick wall with a trellis atop it at the front of The Barn, were initially considered to not be appropriate given the proximity to the Grade II\* listed building. These details were revised, to remove the trellis element atop the brick wall at the front of the site.

The close boarded fencing remains on the plans; the Historic Buildings Consultant has expressed concern over this element. However, it is understood the close boarded fencing already exists having been installed by the occupants of Street Farm, and that it is the responsibility of Street Farm. For the avoidance of doubt, a condition is recommended to be attached to the decision notice to specifically exclude this element.

The Historic Buildings Consultant raises no objection to the materials to be used subject to a condition requiring samples, and the application is therefore considered to be acceptable in this regard.

#### Impact on Neighbour Amenity

The NPPF states that new development should “always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”, whilst policies RLP17 and RLP90 from the Braintree District Local Plan Review and Policy LPP 55 of the Braintree District Publication Draft Local Plan allow for new development where there would be “no unacceptable or undue impact” on neighbouring residential amenities by way of loss of “privacy, overshadowing, loss of light or overbearing impact.”

The proposal would not result in any impacts on neighbouring residential amenities.

#### Highway Issues

None.

#### CONCLUSION

The proposal represents a development which would affect the setting of a listed building, but which would not result in unacceptable harm being caused. Therefore, Officers recommend the planning application for approval.

#### 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 Site Plan	Plan Ref: 0706/01
Existing Floor Plan	Plan Ref: 0706/02
Existing Elevations	Plan Ref: 0706/03
Proposed Site Plan	Plan Ref: 0706/04 Rev. A
Proposed Floor Plan	Plan Ref: 0706/05 Rev. A
Proposed Elevations	Plan Ref: 0706/06 Rev. A

Proposed Elevations  
Section

Plan Ref: 0706/07  
Plan Ref: 0706/09

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

Reason

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

- 2 Notwithstanding the approved plans listed above, the following elements are specifically excluded:-
  - The close boarded fencing shown on the south boundary on Plan Ref. 0706/04 Rev. A.

Reason

For the avoidance of doubt and in the interests of the setting of a listed building.

- 3 Prior to the commencement of works to the wall, a sample panel of 1 square metre minimum shall be erected on site to demonstrate the details of the new brick wall and approved in writing by the local planning authority. This panel shall indicate:-
  - Brick bond, copings, mortar mix, colour and pointing profile.

The works shall be implemented in accordance with the approved details and shall be permanently maintained as such.

Reason

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

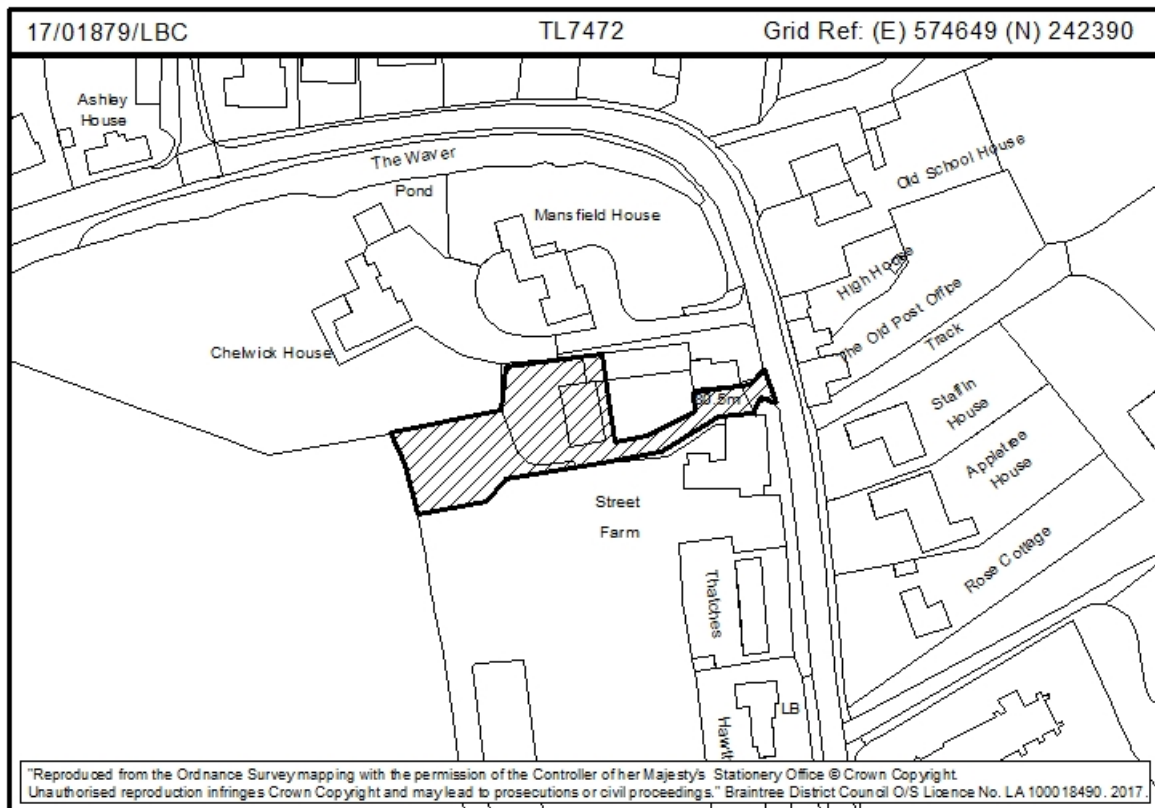
TESSA LAMBERT  
DEVELOPMENT MANAGER



PART B

APPLICATION NO: 17/01879/LBC DATE: 19.10.17  
 VALID:  
 APPLICANT: Mr Nigel McCrea  
 The Barn, The Street, Ashen, Essex, CO10 8JN  
 AGENT: Mr John Baugh  
 John Baugh Ltd, 67 Church Lane, Bocking, Braintree,  
 Essex, CM7 5SD  
 DESCRIPTION: Proposed change of use of part of storage shed to  
 residential, together with minor amendments to fenestration  
 to existing consent to extend living accommodation.  
 Proposed details of boundary treatment between Street  
 Farm and The Barn.  
 LOCATION: The Barn, Street Farm, The Street, Ashen, Essex, CO10  
 8JN

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



## SITE HISTORY

10/01554/LBC	Installation of egress window in first floor bedroom	Granted	18.01.11
17/01878/FUL	Proposed change of use of part of storage shed to residential, together with minor amendments to fenestration to existing consent to extend living accommodation. Proposed details of boundary treatment between Street Farm and The Barn.	Pending Decision	

## POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5<sup>th</sup> June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16<sup>th</sup> June to 28<sup>th</sup> July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9<sup>th</sup> October 2017.

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

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

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

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

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

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was

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

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP100      Alterations and Extensions and Changes of Use to Listed  
Buildings and their settings

#### Braintree District Local Development Framework Core Strategy 2011

CS9            Built and Historic Environment

#### Braintree District Publication Draft Local Plan 2017

LPP60        Heritage Assets and their Settings

#### Other Material Considerations

Essex Design Guide  
• Page 81 – 109 – Design

#### INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being presented to the Planning Committee as the Agent is an elected member.

#### SITE DESCRIPTION

The application site consists of an existing black weatherboarded barn building, within the curtilage of the Grade II\* listed Street Farmhouse. The site is located within both the village envelope and Conservation Area of Ashen. Listed building consent has been granted to allow the barn to be used for residential purposes; and in 2004 planning permission was granted for the continued use of the barn for residential purposes. It is understood that this residential use has been continued since 2004.

This application is accompanied by an application for householder planning permission, ref. 17/01878/FUL.

## PROPOSAL

This application for listed building consent relates to proposed alterations to the curtilage listed building 'The Barn', including the conversion of an existing store attached to the barn into part of the residential dwelling; and alterations to fenestration on the main building.

## CONSULTATIONS

Historic England – No Comments.

Historic Buildings Consultant – No Objections.

Parish Council – No Comments.

## REPRESENTATIONS

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

## REPORT

Policy RLP100 of the Braintree District Local Plan Review and policy LPP 60 of the Braintree District Publication Draft Local Plan state development which could impact upon the setting of a listed building, a locally listed heritage asset, or an otherwise designated heritage asset will only be permitted if the proposed works or uses do not cause harm to the setting, character, structural stability and fabric of the building, and do not result in the loss of or significant damage to the building's historic and architectural elements of special importance, and use appropriate materials and finishes.

The NPPF allows for alterations and works to a listed building. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. However where the development or works would lead to "substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss".

The Historic Buildings Consultant considers that the conversion of the existing store would not result in harm to the listed building, and that the proposed amendments to the fenestration detailing on the building are acceptable.

They recommend a condition be attached to the decision notice requiring details to be submitted in relation to the proposed new windows, doors and rooflights by section and elevation.

### CONCLUSION

The proposal represent works which would affect the setting of a listed building, but which would not result in unacceptable harm being caused and through the use of conditions can be limited. Therefore, Officers recommend the application should be approved listed building consent.

### 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 Site Plan	Plan Ref: 0706/01
Existing Floor Plan	Plan Ref: 0706/02
Existing Elevations	Plan Ref: 0706/03
Proposed Site Plan	Plan Ref: 0706/04 Rev. A
Proposed Floor Plan	Plan Ref: 0706/05 Rev. A
Proposed Elevations	Plan Ref: 0706/06 Rev. A
Proposed Elevations	Plan Ref: 0706/07
Section	Plan Ref: 0706/09

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

#### Reason

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

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

#### Reason

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

- 3 The works to the listed building shall not be commenced until additional drawings that show details of proposed new windows, doors, eaves, verges and cills to be used by section and elevation at scales between 1:20 and 1:1 as appropriate have been submitted to and approved in writing by the local planning authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such.

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 5h

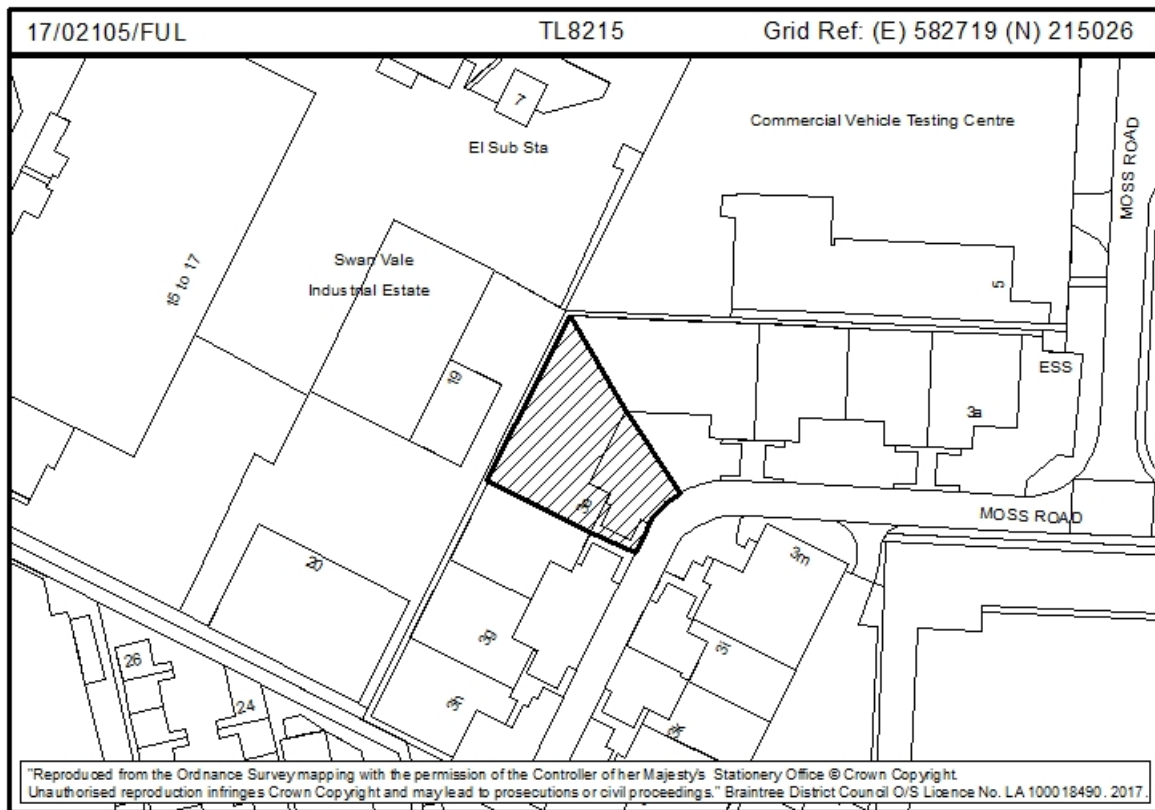
PART B

APPLICATION NO: 17/02105/FUL DATE: 07.12.17  
VALID:  
APPLICANT: Team Kinetix Limited  
3E Moss Road, Witham, Essex, CM8 3UW  
AGENT: Collins & Coward  
Mr Ian Coward, The Courtyard, 9A East Street, Coggeshall,  
Essex, CO6 1SH  
DESCRIPTION: Change of use to Use Class D2 (Parkour based fitness and  
coaching facility)  
LOCATION: 3E Moss Road, Witham, Essex, CM8 3UW

For more information about this Application please contact:

Will Collier on:- 01376 551414 Ext.

or by e-mail to: [will.collier@braintree.gov.uk](mailto:will.collier@braintree.gov.uk)



## SITE HISTORY

76/00739/	Construction of access road as an extension to Moss Road, Witham.	Granted	22.10.76
77/00720/P	Erection of building for offices and storage for bank purposes viz, a cash centre at Moss Road.	Granted	07.09.77
79/00021/A	Erection and display of non-illuminated advertisement lettering at Unit 3.	Granted	25.06.79
79/00038/A	Display of non-illuminated individually applied lettering at Unit 3.	Granted	18.10.79
84/00578/P	Extension to existing showroom for exhibit and sale of carpets.	Refused	04.07.84
85/00051/A	Display of internally illuminated fascia sign.	Granted	31.01.86
86/00015/A	Display of non-illuminated shop sign.	Granted	25.04.86
94/00449/COU	Proposed change of use from B1 (Business) to B2 (General Industrial)	Granted	27.05.94
95/00671/ELD	Application for a certificate of lawfulness - retail sales, display of goods and storage	Granted	17.01.96

## POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan, which was approved by the Council unanimously for consultation on the 20<sup>th</sup> June 2016 and was the subject of public consultation between the 27<sup>th</sup> June and 19<sup>th</sup> August 2016. The Draft Local Plan, now referred to as the Publication Draft Local Plan, was approved by the Council on 5<sup>th</sup> June 2017 for consultation and for submission to the Secretary of State. The public consultation ran from 16<sup>th</sup> June to 28<sup>th</sup> July 2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9<sup>th</sup> October 2017.

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

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



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

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

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

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP28	Employment Land Provision
RLP33	Employment Policy Areas
RLP36	Industrial and Environmental Standards
RLP56	Vehicle Parking
RLP90	Layout and Design of Development
RLP129	Sports and Leisure Facilities
RLP134	Sports Causing Noise or Disturbance

#### Braintree District Local Development Framework Core Strategy 2011

CS9	Built and Historic Environment
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#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP4	Providing for Employment and Retail
SP6	Place Shaping Principles
LPP1	Development Boundaries

LPP2	Location of Employment Land
LPP3	Employment Policy Areas
LPP7	Design and Layout of Employment Policy Areas and Business Uses
LPP14	Leisure and Entertainment
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

The application is brought before the Planning Committee because Witham Town Council support the proposal, which is contrary to the officer recommendation for refusal.

## SITE DESCRIPTION

The site comprises a business unit (613sq.m) within a single storey industrial building in the Freebournes employment area, located on the eastern edge of Witham. The application site is located within the town development boundary, and is currently unoccupied.

## PROPOSAL

The proposal is for a change of use from B1/B2 to use class D2 for a parkour fitness facility. The proposed use of the site is for a specialist training discipline called parkour fitness, derived from military style obstacle training and broadly characteristic of a gymnasium. It is proposed that 10 parking spaces are provided within the site, in addition to 3 existing on site spaces plus 2 off-site spaces. 10 cycle parking spaces are also proposed. The proposal will generate 6 employees.

## CONSULTATIONS

### Witham Town Council

Witham Town Council has expressed support for the proposal.

## REPRESENTATIONS

A site notice was put up on site on 3<sup>rd</sup> January 2018 with a consultation deadline of 24<sup>th</sup> January 2018.

23 representations of support were received summarised below.

- Brings unique facility that is currently only available in larger cities. Only a handful of parkour fitness facilities in the country.
- Provides a much needed resource for young people looking for healthy, active experiences.

- There is lack of such resources. It is a growing sport and in demand in Essex.
- It is needed to support the vast amount of housing growth forecast for the area.
- Stimulates young people to grow, improving confidence and preventing anti social behaviour
- Parkour fitness ensures children and adults learn within a safe, supportive environment.
- The facility will bring customers from outside of Witham, with knock on effect on the local economy.
- Only a handful of parkour centres in the country
- Safe location
- Need to encourage innovation and new sports in the district
- Improves community wellbeing. Important for all ages and those recovering from injury.

## REPORT

### Principle of Development

It is acknowledged that there is significant amount of support for the proposal which would benefit the local community, providing more opportunity to be involved with activities that support health and wellbeing. Local planning policy supports the provision of sports and leisure uses within town and village centres. In this case, however, the proposal is for a change of use within an industrial estate which is protected for employment use, and therefore the principle of the proposed change of use is not supported.

The development is for a change of use from B1 to D2 within an employment policy area within the town boundary, and therefore subject to Policy RLP33 (Employment Policy Areas). Policy RLP33 of the Braintree District Local Plan Review states that: Employment Policy Areas are defined on the Proposals Map where proposals for uses other than those within Use Classes B1, B2 and B8 will be refused.

As set out in the preamble to Policy LPP3 of the emerging Braintree District Publication Draft Local Plan, in recent years there has been a greater proportion of uses on employment areas turning to other uses such as personal storage, gyms and leisure facilities. The Council wishes to preserve business parks for B use employment. Policy LPP3 of the emerging Braintree District Publication Draft Local Plan states that employment policy areas are identified on the proposals map, where the following uses will be considered appropriate and will be permitted and retained: (A). business (Use class B1) general industrial (Use class B2) and storage and distribution (Use class B8); (B). repair of vehicles and vehicle parts; (C). waste management facilities as appropriate taking into account neighbouring uses; services specifically provided for the benefit of businesses or workers based on the employment area.

Whilst both the NPPF and the Core Strategy seek to support the local economy, the NPPF states at paragraph 22 that “Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities”.

As part of the process of updating the Local Plan, employment land allocations in the District were reviewed in 2012 and subsequently in 2015. The site was identified for retention for employment uses in both the Employment Sites Viability Review 2012 and the more recent Employment Needs Assessment 2015. No marketing evidence has been provided to show that there is no reasonable prospect of the site, which is currently vacant, being used for employment purposes.

Policy RLP129 of the Braintree District Local Plan Review states that proposals for sports and leisure facilities, which require substantial buildings, including change of use, should normally be located within town or village centres. If no suitable sites within these areas exist, then such developments may be acceptable, as an exception, on edge-of-centre sites provided that: - they are conveniently accessible by both public and private transport, bicycle and on foot from nearby residential areas - they are located where there are no overriding traffic problems and access to the development will be safe - they have no detrimental effect upon residential amenity, or the environment - they are compatible with other policies in the plan. If there are no suitable sites within town boundaries or village envelopes then sites adjoining urban areas may be considered if they meet the criteria set out above.

It is therefore considered that the proposal is contrary to Policy RLP33 of the Braintree District Local Plan Review. Furthermore, Policy LPP3 of the emerging Braintree District Publication Draft Local Plan shows the policy direction that the Council is seeking to follow in respect of identified Employment Policy Areas in the district, and ensuring that sufficient floorspace is available for employment and industrial uses in suitable locations in the District; jobs growth being required in tandem with the substantial increase in housing numbers identified for the District in the new Local Plan. There is therefore an objection in principle to the proposal.

#### Design, Appearance and Layout

There is no proposed change to the external appearance under the current application which only seeks a change of use to D2.

### Impact on Neighbour Amenity

Taking into account the position of the building, and having regard to the proposed works, it is considered that the proposal would not have a detrimental impact upon adjacent residential properties in terms of loss of natural light, overshadowing, overbearing, or in terms of overlooking.

### Highway Issues

There are currently 5 spaces provided on site, consisting of 3 spaces to the front of the property and 2 further spaces at the end of Moss Road, outlined in red on the Site Location Plan. A further 7 spaces are proposed by reconfiguring the area to the front of the building, bringing the total to 12. It is noted that the plans do not highlight the additional 7 spaces.

The adopted Parking Standards require a greater number of spaces for a D2 use than the current employment use. Parking provision is based on floor area. A D2 use requires a maximum of 1 space per 10 square metres of public area. The floor area is understood to be 613 square metres which equates to a maximum of 61 spaces.

Whilst the required standard is a maximum, the officer observed a considerable amount of on-street parking on Moss Road. Given the level of available parking on site, it is considered that the proposed use would lead to further on street parking on the industrial estate, which is likely to cause difficulties for other premises on the industrial estate.

### CONCLUSION

Whilst it is acknowledged there is significant support for the proposal, the principle of the proposed change of use is not supported given that it would lead to the loss of a viable employment unit reducing the floor space available for employment/industrial uses in a suitable location which is protected for such uses. The proposal would therefore be contrary to Policy RLP33 of the Braintree District Local Plan Review and Policy LPP3 of the emerging Braintree District Publication Draft Local Plan.

Furthermore, the proposed parking provision falls below the required standard for D2 uses in the adopted Parking Standards 2009. It is therefore considered that the proposed use would lead to further on-street parking on the industrial estate which would exacerbate the current on-street parking situation contrary to Policy RLP56 of the Braintree District Local Plan Review and the adopted Parking Standards 2009.

### RECOMMENDATION

It is RECOMMENDED that the following decision be made:  
Application REFUSED for the following reasons:-

- 1 The site is located in an Employment Policy Area which is allocated for B1/B2/B8 employment uses in both the Braintree District Local Plan Review and the Braintree District Publication Draft Local Plan. The proposal would lead to the loss of a viable employment unit reducing the floorspace available for employment/industrial uses in a suitable location which is protected for such uses. The proposed D2 use is therefore contrary to Policy RLP33 of the Braintree District Local Plan Review and Policy LPP3 of the Braintree District Publication Draft Local Plan.
- 2 The proposed parking provision falls below the required standard for D2 uses in the adopted Parking Standards 2009. It is therefore considered that the proposed use would lead to further on-street parking on the industrial estate which would exacerbate the current on-street parking situation contrary to Policy RLP56 of the Braintree District Local Plan Review and the adopted Parking Standards 2009 and Policy LPP45 of the Braintree District Publication Draft Local Plan.

#### SUBMITTED PLANS

Location Plan	Plan Ref: 3327:001
Existing Floor Plan	Plan Ref: 3327:002
Proposed Floor Plan	Plan Ref: 3327:003

TESSA LAMBERT  
DEVELOPMENT MANAGER

<b>Proposed Deed of Variation to Maltings Lane S106 Legal Agreement (12/01071/OUT) in respect of the Playing Field Facilities</b>		<b>Agenda No: 6</b>
<b>Portfolio</b>	<b>Planning and Housing</b>	
<b>Corporate Outcome:</b>	<p><b>A sustainable environment and a great place to live, work and play</b>  <b>A well connected and growing district with high quality homes and infrastructure</b>  <b>Residents live well in healthy and resilient communities where residents feel supported</b>  <b>Delivering better outcomes for residents and businesses and reducing costs to taxpayers</b></p>	
<b>Report presented by:</b>	<b>Neil Jones, Principal Planning Officer</b>	
<b>Report prepared by:</b>	<b>Neil Jones, Principal Planning Officer &amp; Sarah Burder, S106 Monitoring Officer</b>	
<b>Background Papers:</b> Planning Committee Report, dated 08.01.2013, Application Reference 12/01071/OUT S106 Legal Agreement – reference 12/01017/OUT Planning Committee Report, dated 13.05.2014, Application Reference 14/00100/REM		<p><b>Public Report</b></p> <p><b>Key Decision: No</b></p>
<b>Executive Summary:</b>		
<p>This report details a proposed variation to the current S106 Agreement in connection with the development at the Maltings Lane, Witham.</p> <p>The S106 Agreement places a requirement on developers to provide a range of Community Facilities, including Playing Field Facilities which are to include sports pitches; a Multi-Use Games Area (MUGA); and changing rooms on the site.</p> <p>The developer of the latest parcel of land is in the process of completing the setting out of the Playing Field Facilities. Officers have reviewed the requirement to provide changing rooms for use with the sports pitches and Officers now consider that a more sustainable means of providing changing facilities would be as part of a new multi-purpose community building that the Council intends to develop on land adjacent to the sports pitches.</p> <p>To assist in funding the new community building the developer has agreed to make a financial contribution to the Council of £150,000 instead of providing the changing room building.</p> <p>In addition, the MUGA has not been provided to the size stated in the S.106 Agreement and Officers are minded to accept a financial payment in lieu of the developer marking out the sports pitches and providing goals as the future management and use of the sports pitches has not yet been decided upon.</p>		

**Recommended Decision:**

It is recommended that Members pass a resolution to allow Officers to complete a Deed of Variation to the S106 Agreement associated with planning permission 12/01071/OUT, to provide for:

- a financial contribution of £150,000 to be paid to the District Council releasing the developer from the obligation to provide changing room facilities
- the size of the MUGA be correctly recorded as 24 x 39m
- a financial contribution of £5,640.00 to be paid to the District Council in lieu of the developer marking out the football pitches and providing goals

**Purpose of Decision:**

To enable the Local Planning Authority to make suitable variations to the terms of the existing S106 Agreement to reflect changes in circumstances regarding the provision of the Playing Field Facilities to serve the Maltings Lane development.

**Corporate Implications**

<b>Financial:</b>	Providing changing room facilities through a single multi-purpose Community Building is considered to more sustainable financially. If a Changing Room building were erected by the developer and transferred to the Council this would be a liability that the District Council would need to manage / maintain. Providing a financial contribution in lieu of the marking out and provision of goal posts gives the Council some flexibility on the use of the sports pitches
<b>Legal:</b>	Any legal implications have been considered as part of the assessment.
<b>Safeguarding:</b>	None
<b>Equalities/Diversity:</b>	None
<b>Customer Impact:</b>	Until plans for the new Maltings Lane Community Building are developed users of sports pitches on Maltings Lane will not have access to changing room facilities. Pitch markings and goal posts will need to be provided before sports pitches can be used
<b>Environment and Climate Change:</b>	Providing changing room facilities through a single multi-purpose Community Building is considered a more sustainable option than erecting a building whose only purpose would be for use as changing rooms.
<b>Consultation/Community Engagement:</b>	Witham Town Council has been advised of the District Council's intention to vary the S106 Agreement in respect of the changing rooms.
<b>Risks:</b>	None
<b>Officer Contact:</b>	Neil Jones
<b>Designation:</b>	Principal Planner
<b>Ext. No:</b>	2523
<b>E-mail:</b>	<a href="mailto:neil.jones@braintree.gov.uk">neil.jones@braintree.gov.uk</a>



## **INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE**

This application is brought before the Planning Committee as it is proposed that the terms of the S106 Agreement are varied and that financial contributions are secured from the developer in-lieu of the changing room facilities and pitch markings/goal posts that they are required to provide for the sports pitches under the terms of 2012 S106 Agreement.

The Council's scheme of delegation provides Officers with delegated authority to vary the terms of S106 Agreements; however the Development Manager considers that it is appropriate that this matter is reported to the Planning Committee given the historic concerns of Members and members of the public about the delivery of the Community Facilities within the Maltings Lane development.

### **Background**

Members will be aware of the long history of development at the Maltings Lane development in Witham. The first planning application for the development of 800 Dwellings, Business Park, Primary School, Neighbourhood Centre, and Community Facilities was submitted in 1991. The original outline planning permission was issued in 2000. Since that time there has been a number of planning applications and amendments to the scheme.

The most recent amendment to the Masterplan was submitted in 2012 – application reference 12/01071/OUT – *'Revised masterplan for a mixed use development comprising a commercial area for employment, neighbourhood centres, community facilities including food retail, non-food retail, a pub/restaurant, Class B1 office, retail warehousing, other uses within Classes A1 to A5, children's day nursery, health centre, sports facilities, residential dwellings, open space, landscaping and ancillary infrastructure at land to the south of Hatfield Road forming part of the Maltings Lane development'*

Schedule 7 of the S106 Agreement is concerned with the provision of Community Facilities and Part 4 specifically deals with the provision of 'Playing Fields'. The Playing Field Facilities were specified within the Agreement to include an area of at least 2 hectares set out as an outdoor sports facility, comprising not less than two football pitches; changing facilities and a 37 x 34metre all-weather surface for sports and games (commonly referred to as a MUGA – Multi-Use Games Area)

The S106 Agreement requires the developer to construct the Playing Field Facilities prior to the occupation of the 150th dwelling and offer to transfer the same to the District Council.

### **Current Situation**

When the Masterplan was revised in 2012 there were up to 213 units of residential accommodation left to be constructed. Following approval of Reserved Matters application 14/00100/REM in 2014 for 135 dwellings, Taylor Wimpey has constructed all 135 dwellings. This leaves one parcel of residential land undeveloped with the Masterplan indicating a development of up to 67 flats on this parcel.

The S106 Agreement only requires that the Playing Field Facilities are provided prior to the occupation of the 150<sup>th</sup> dwelling of the 213 permitted. This means that the legal requirement to provide the Playing Field Facilities only comes into effect when 14

dwellings in the last undeveloped residential phase of the development have been occupied. The land is still owned by private individuals and there is no certainty on when the development of this last parcel of land will come forward. The Council will need to approve Reserved Matters applications before these dwellings can be erected on this remaining parcel.

The sports pitches and MUGA are south west of the Taylor Wimpey (TW) development at Haygreen Road/Duncombe Close. Ahead of the requirement to do so, TW have laid out the grass football pitches and construct the MUGA. Due to the available configuration on site the MUGA has been constructed at 24 x 39metres (measured externally, not 37 x 34metres as the S106 Agreement specified. Although the MUGA is narrower than the size specified in the agreement this does not affect its usability. It will be marked out for football and basketball use but is intended for informal use, rather than competitive matches where court sizes would be important. Officers consider the area that has been constructed is acceptable and there would be little value in requiring that the court be altered to meet the S106 obligation.

Providing a financial payment in lieu of football pitch markings and goals is considered appropriate by Officers as the final user of the pitches is yet to be determined.

Works to complete the fitting out of the MUGA and erecting appropriate fencing and means of enclosure to the sports pitches are currently being completed by contractors on behalf of TW. Once the works have been completed to the Council's satisfaction the Playing Field Facilities can be offered for transfer to the District Council. This will be well in advance of the obligation in the S106 Agreement, which specifies that the facilities be provided prior to occupation of the 150<sup>th</sup> dwelling and the facilities can then be made available for use by the community.

### **Changing Rooms**

The Reserved Matters 14/00100/REM application by TW included details of a changing room facility. The approved single storey building contained separate changing rooms and facilities for two teams and a third for match officials. The building would be 81m<sup>2</sup> and be constructed with buff brick; concrete roof tiles on a hipped roof.

Since 2012, when the latest S106 Agreement was agreed, Officers have reviewed whether the construction of a dedicated changing room building to serve just two football pitches is the best way to provide changing facilities for pitch users. The changing rooms are likely to only be used for a limited amount of time – probably no more than a few hours on Saturday and Sunday during the football season.

Officers consider that a more sustainable option would be for the changing facilities to be provided as part of a future Community Building at Maltings Lane. As part of the provision of Community Facilities at Maltings Lane 1Ha of land, immediately to the south east of the football pitches, has already been transferred to the Council for this purpose. In addition to the land the Council has received a financial contribution of £832k from the Maltings Lane development towards the provision of Community Facilities.

The Council has also secured financial contributions towards the development of a Community Building on the Maltings Lane site from other developments within Witham – Lodge Farm (£350k); Forest Road (£175k); and Conrad Road (£200k).

Officers have agreed a financial contribution of £150,000, representing the cost to Taylor Wimpey of constructing the approved building, to be paid to the Council, in lieu of TW constructing the changing facilities.

As the delivery of the Community Building is linked to the payment of financial contributions from three other developments it is acknowledged that there will be a period of time where the sports pitches do not have on site changing facilities. However this would not prevent the pitches being used as many teams play on pitches which don't have changing facilities, with players turning up in their kit. Officers consider that the benefits of having changing facilities would not be outweighed by the fact that the building could attract anti-social behaviour and be a financial liability which the Council would have to maintain despite the challenging financial environment. A single multi-function Community Building is considered to represent a facility that would be more sustainable and easily managed.

### **RECOMMENDATION**

It is recommended that Members pass a resolution to allow Officers to complete a Deed of Variation to the S106 Agreement associated with planning permission 12/01071/OUT, to provide for:

- a financial contribution of £150,000 to be paid to the District Council releasing them from the obligation to provide changing room facilities at Maltings Lane.
- the size of the MUGA be correctly recorded as 24 x 39m
- a financial contribution of £5,640.00 to be paid to the District Council in lieu of the developer marking out the football pitches and providing goals