

# PLANNING COMMITTEE AGENDA

Tuesday, 17th October 2023 at 7.15pm

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

**THIS MEETING IS OPEN TO THE PUBLIC**

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<http://www.braintree.gov.uk/youtube>

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

Councillor J Abbott

Councillor J Beavis

Councillor L Bowers-Flint

Councillor T Diamond

Councillor M Fincken

Councillor J Hayes

Councillor D Holland (Vice-Chairman)

Councillor A Hooks

Councillor A Munday

Councillor I Parker (Chairman)

Councillor F Ricci

Councillor P Schwier

Councillor G Spray

Substitutes: Councillor K Bowers, Councillor M Green, Councillor P Heath, Councillor L Jefferis, Councillor J Pell, Councillor G Prime, Councillor S Rajeev, Councillor W Taylor, Councillor M Thorogood, Councillor P Thorogood, Councillor J Wrench, Councillor B Wright, Vacancy.

Apologies: 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.

Any Member who is unable to attend a meeting is able to appoint a Substitute. Written notice must be given to the Governance and Members Team no later than 24 hours before the start of the meeting.

D GASCOYNE  
Chief Executive

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

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

The Agenda allows for a period of up to 30 minutes for Public Question Time. Members of the public may ask questions or make a statement to the Committee on matters listed on the Agenda for this meeting.

All questions or statements should be concise and should be able to be heard within the 3 minutes allotted to each speaker.

Anyone wishing to ask a question or make a statement is requested to register their interest by completing the Public Question Time registration [online form](#) by **midday on the second working day** before the day of the meeting.

For example, if the meeting is on a Tuesday, the registration deadline is midday on Friday, (where there is a Bank Holiday Monday you will need to register by midday on the previous Thursday). The Council reserves the right to decline any requests to register to speak if they are received after this time.

When registering for Public Question Time please indicate whether you wish to attend the meeting 'in person', or to participate remotely. People who choose to join the meeting remotely will be provided with the relevant link and joining instructions for the meeting.

Please note that completion of the on-line form does not guarantee you a place to speak during Public Question Time. You will receive email notification from the Governance Service confirming whether your request is successful.

Confirmed registered speakers will be invited to speak immediately prior to the relevant application/item. All registered speakers will have three minutes each to ask their question or to make a statement. The order in which registered speakers will be invited to speak is: members of the public, Parish Councillors/County Councillors/District Councillors/Applicant/Agent.

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

In the event that a registered speaker is unable to connect to the meeting, or if there are any technical issues, their question/statement may be read by a Council Officer.

Further information on Public Question Time is available on the [Council's website](#).

### **Health and Safety**

Anyone attending a meeting of the Council is asked to make themselves aware of the nearest available fire exit. In the event of an alarm sounding, you must evacuate the building immediately and follow all instructions provided by staff. You will be directed to the nearest designated assembly point where you should stay until it is safe to return to the building.

### **Substitute Members**

Only the named Substitutes on this Agenda may be appointed by a Member of the Committee to attend in their absence. The appointed Substitute becomes a full Member of the Committee with participation and voting rights.

### **Documents**

Agendas, Reports and Minutes may be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk)

### **Data Processing**

For further information on how the Council processes data, please see the Council's Privacy Policy:

[https://www.braintree.gov.uk/info/200136/access\\_to\\_information/376/privacy\\_policy](https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy)

### **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 may view webcasts for up to 6 months after the meeting using this link: <http://braintree.public-tv/core/portal/home>. The meeting will also be broadcast via the Council's YouTube Channel.

### **Comments and Suggestions**

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 may send these to [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk)

## **PUBLIC SESSION**

**Page**

**1 Apologies for Absence**

**2 Declarations of Interest**

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

**3 Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 26th September 2023 (copy to follow).

**4 Public Question Time**

Only Registered Speakers will be invited by the Chairman to speak during public question time.  
Please see the agenda notes for guidance.

**5 Planning Applications**

To consider the following planning applications.

<b>5a</b>	<b>App. No. 22 02462 LBC - Woodhouse Farm Cottage, Woodhouse Lane, KELVEDON</b>	<b>6 - 20</b>
<b>5b</b>	<b>App. No. 22 02463 FUL - Woodhouse Farm Cottage, Woodhouse Lane, KELVEDON</b>	<b>21 - 33</b>
<b>5c</b>	<b>App. No. 22 02464 FUL - Woodhouse Farm Cottage, Woodhouse Lane, KELVEDON</b>	<b>34 - 53</b>
<b>5d</b>	<b>App. No. 22 02863 LBC - Woodhouse Farm Cottage, Woodhouse Lane, KELVEDON</b>	<b>54 - 85</b>
<b>5e</b>	<b>App. No. 23 00351 FUL - Woodhouse Farm Cottage, Woodhouse Lane, KELVEDON</b>	<b>86 - 104</b>
<b>5f</b>	<b>App. No. 23 00352 LBC - Woodhouse Farm Cottage, Woodhouse Lane, KELVEDON</b>	<b>105 - 120</b>
<b>5g</b>	<b>App. No. 23 00994 FUL - Land North East of The Vineyards, HATFIELD PEVEREL</b>	<b>121 - 160</b>
<b>5h</b>	<b>App. No. 23 01274 FUL - Clarks Farm, North Road, BELCHAMP WALTER</b>	<b>161 - 185</b>

5i	App. No. 23 01288 DAC - Phase 4, Land North East of Rectory Lane, RIVENHALL	186 - 205
5j	App. No. 23 01785 HH - 114 Church Lane, BRAINTREE	206 - 220
5k	App. No. 23 01880 OUT - Land South of Springfields, BRAINTREE	221 - 368

**6 Urgent Business - Public Session**

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

**7 Exclusion of the Public and Press**

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

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

**PRIVATE SESSION**

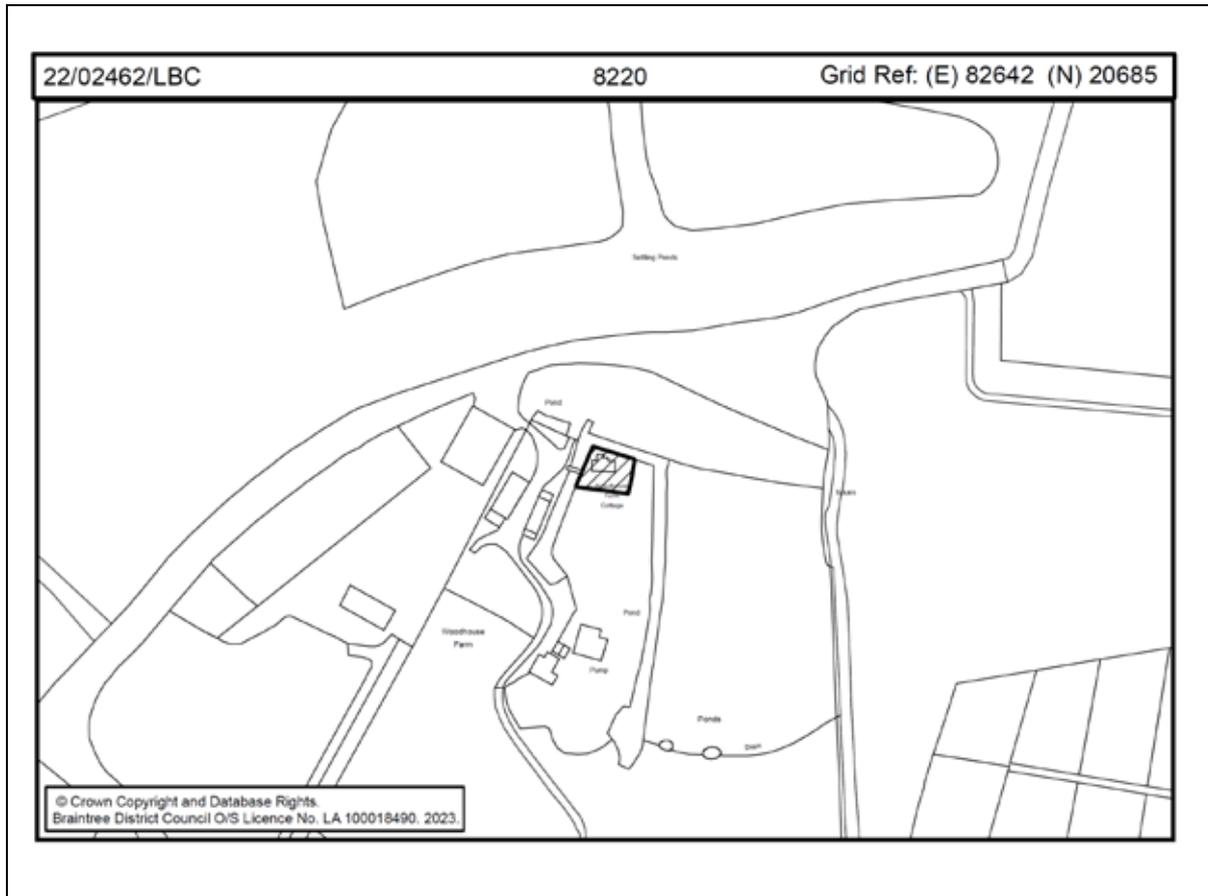
**Page**

**8 Urgent Business - Private Session**

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

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 17th October 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	22/02462/LBC
<b>Description:</b>	- Repair of existing roof structure, enclosure, chimneys, first floor ceiling, rainwater goods. - Installation of new bat access features.
<b>Location:</b>	Woodhouse Farm Cottage, Woodhouse Lane, Kelvedon
<b>Applicant:</b>	Mr Gareth Jones, Indaver Rivenhall Limited, Woodhouse Farm, Woodhouse Lane, Kelvedon, Essex, CO5 9DF
<b>Agent:</b>	Mr Steven Smith, Honace Limited, 820 The Crescent, Colchester Business Park, Colchester, CO4 9YQ
<b>Date Valid:</b>	15th September 2022
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Conditions & Reasons and Informatives outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can: a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overtturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Approved Plans & Documents Conditions & Reasons and Informatives
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Fiona Hunter For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2521, or by e-mail: <a href="mailto:fiona.hunter@braintree.gov.uk">fiona.hunter@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.
<b>Legal Implications:</b>	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications:</b>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</li> </ul> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The</p>

	<p>Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council’s Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/02462/LBC.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013-2033)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD’s) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council’s website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

- 1.1 This application considers repairs to the Grade II listed building known as Woodhouse Farm Cottage in order to provide a bat habitat.
- 1.2 The application site is located within the Woodhouse Farm Complex, within the countryside to the east of Silver End and north of Rivenhall.
- 1.3 The proposed use of the application site, when taking into account the wider context of the site as a whole, is considered acceptable.
- 1.4 There have been no identified harms when considering the merits of the application.
- 1.5 Taking these factors into account, the application is recommended for approval.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation, as the application is deemed to be 'significant' by the Planning Development Manager.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site forms part of a wider site, known as the 'Woodhouse Farm Complex'. This site is set within an area which has been subject to a number of applications to Essex County Council for the Indaver Waste Management Facility (IWMF) on the former Rivenhall airfield. This application forms one of a number of proposals which seek to satisfy a condition set out within the IWMF permissions to provide a visitor and education centre at Woodhouse Farm and associated buildings. This is set out within Condition 68 of ESS/34/15/BTE which states:

*'Within 6 years of the date of commencement of development as notified under condition 1, Woodhouse Farm and buildings shall be refurbished to a visitor and education centre.'*

The Section 106 agreement for associated with ESS/37/08/BTE further stipulates that:

*'Subject to obtaining all necessary consents to use reasonable endeavours to reinstate and refurbish the Woodhouse Farm Complex to include offices, an education centre for the public and an area set aside as a local heritage and airfield museum prior to the commencement of Beneficial Use of the Waste Management Facility'*

5.2 The wider site is formed of a number of listed buildings and barns, which are in various states of repair. The site is accessed from Woodhouse Lane, which runs to the south of the site, along with an access which runs through the Waste Management Facility from the A120.

5.3 This application has been submitted alongside a number of piecemeal applications across the wider 'Woodhouse Farm Complex' as set out below:

23/00351/FUL & 23/00352/LBC - Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timberframing

and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats;

22/02863/LBC - Consolidate, conserve and repair the remains of the walls and fabric to the Feed Barn, comprising the recording and removal of timber walls, concrete footings, timber posts and metal fence, C20 block wall and C20 concrete floor and the retention and minor repair of surviving brick plinth walls and farmyard brick wall;

23/02463/FUL - Installation of timber post and rail fence, including one pedestrian gate providing private access; and

22/02464/FUL - Refurbishment, extension and fencing of existing agricultural steel barn and brick-built lean-to shed to create workshop and enclosed yard space that can be used by local community groups (Class D2).

5.4 The above applications are also being reported to Planning Committee on 17th October 2023.

## 6. PROPOSAL

6.1 This application seeks repairs to the building known as Woodhouse Cottage, in order to utilise the building as a bat habitat. The proposal seeks the majority of repairs to the roof of the building, which is currently damaged due to trees fallen onto it and the length of time the building has been uninhabited.

6.2 The roofs repairs would see existing fabric being retained where possible, with the installation of new handmade red clay peg tiles and ridge tiles where required. Internally, new roof timbers would be installed. Externally, new rainwater goods would be provided by way of black aluminium gutters and downpipes, and the repair of existing timber fascias. The existing chimneys would be repaired with pebbledash render removed and the brickwork repaired and repointed.

6.3 Internally, ceilings would be repaired at both ground and first floor level. The proposals see the use of existing materials where possible, and the installation of additional ceiling joists where necessary. A ceiling access hatch would be provided to allow for access to the loft space for ecological monitoring and maintenance.

6.4 In order to provide bat habitats, bat access points would be provided to the south, north and west facing pitches of the western hip and in the apex of the north facing gable. This would allow for direct access to the roof space for bats.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 BDC Ecology

7.1.1 Initially raised a holding objection due to insufficient ecological information on European Protected Species (bats). Following the submission of further information, no objection subject to securing ecological mitigation measures. Recommend an informative regarding mitigation measures.

### 7.2 ECC Historic Buildings Consultant

7.2.1 The proposed alterations and repairs to the building are appropriate for the building's age, material make up and appearance. No objection to the proposals.

### 7.3 ECC Minerals and Waste

7.3.1 No objection. There is a requirement for bat habitats to be created at Woodhouse Cottage in associated with ECC application ESS/03/18/BTE. Bat habitats in the roof are welcomed.

## 8. PARISH / TOWN COUNCIL

### 8.1 Kelvedon Parish Council

8.1.1 No comment and no objection.

## 9. REPRESENTATIONS

9.1 No letters of representation have been received in connection with this application.

## 10. PRINCIPLE OF WORKS

10.1 The application site is located within the countryside to the east of Silver End and north of Rivenhall. Policy LPP1 of the Adopted Local Plan sets out that development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside. The proposal sees the repair of a listed building to provide a habitat for a priority species. It is considered that the proposals would accord with a use appropriate to the countryside and would therefore be acceptable in principle subject to further material considerations.

10.2 Policy LPP66 of the Adopted Local Plan states that development proposals shall provide for the protection of biodiversity and the mitigation or compensation of any adverse impacts. This application has been submitted as part of the requirements of a S106 associated with an Essex County Council Application Reference ESS/03/18/BTE. The S106 Agreement set

out that the developer was required '*within six months of commencement of development [of ESS/03/18/BTE] to submit to the County Council for approval details and a programme of works to be undertaken to Woodhouse Farm Cottage to make it suitable and attractive for roosting bats*'. The proposals therefore provide for ecological mitigation for the wider Waste Management Facility site.

10.3 Policy LPP64 of the Adopted Local Plan sets out that '*proposals that result in a net gain in priority habitat will be supported in principle, subject to other policies in this plan. Where priority habitats are likely to be adversely impacted by the proposal, the developer must demonstrate that adverse impacts will be avoided, and impacts that cannot be avoided are mitigated on-site. Where residual impacts remain, off-site compensation will be required so that there is no net loss in quantity and quality of priority habitat in Braintree District.*' The principle of the provision of a bat habitat is therefore supported, subject to further consideration of impacts particularly on the listed building.

10.4 Policy LPP57 of the Adopted Local Plan sets out that development of internal, or external alterations, or extensions, to a listed building or listed structure (including any structures defined as having equivalent status due to being situated within the curtilage of a listed building and locally listed heritage assets) will be permitted where the development meets the tests set out in national policy, and the works or uses include the use of appropriate materials and finishes. The alteration of the listed building is therefore supported in principle subject to compliance with the above.

## 11. SITE ASSESSMENT

### 11.1 Design, Appearance and Impact upon Heritage Asset

11.1.1 The application seeks listed building consent for the repair of the existing roof, along with the removal of pebbledash render from the existing chimney and subsequent brick repairs, and the provision of bat access points. There would be a number of internal changes to facilitate access to the roof space and repairs to the internal ceilings. In terms of external changes, the proposal seeks to retain as much original fabric as possible, and matching materials where new material is required.

11.1.2 Policy LPP47 of the Adopted Local Plan states that the Council will promote and secure a high standard of design and layout in all new development and the protection and enhancement of the historic environment. Policy LPP52 of the Adopted Local Plan also states that designs shall be sensitive to the need to conserve and enhance local features of architectural, historic and landscape importance.

11.1.3 The application seeks to retain as many of the original features of the building as possible, with repairs undertaken where possible. The Historic Buildings Consultant has provided comments on the application, stating that the proposed alterations and repairs to the building are appropriate and

considerate of the building's age, material make up and appearance, and has no objections to the proposal. Officers concur that the proposals would be appropriate to the building, particularly when considering the proposed use of the application site.

## 11.2 Ecology

11.2.1 The proposed use of the building would be for bat habitats, by virtue of the provision of access points to the roof space. This is part of wider mitigation measures for the Waste Management Facility. The site is currently home to a number of bat boxes which are affixed to the walls of the property.

11.2.2 Due to the proposed removal of the existing bat boxes, the Council's Ecological Consultant requested further information regarding the bat species currently utilising the boxes and the potential requirement for a European Protected Species Mitigation Licence for the removal of these boxes.

11.2.3 Following the submission of further information by the Applicant consisting of Bat Roost Characterisation Surveys, the holding objection was removed subject to an informative outlining to the Applicant their requirement to secure a licence from Natural England (or a statement from Natural England outlining that one would not be required).

## 12. CONCLUSION

12.1 Overall, it is considered that the proposals would be acceptable from a heritage perspective, considering the current state of the building and the proposed use of the site. Further to this, the ecological impacts of the proposal are acceptable subject to the works being carried out in accordance with the submitted Ecological Statement.

## 13. RECOMMENDATION

13.1 It is RECOMMENDED that the following decision be made:  
Application GRANTED in accordance with the Approved Plans and Documents, and subject to the Conditions & Reasons, and Informatives outlined within APPENDIX 1.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

### APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)

#### Approved Plan(s) & Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Roof Plan	N/A	N/A
Location Plan	0010	N/A
Proposed Site Plan	1028	N/A
Proposed Plans	1300	N/A

#### Condition(s) & Reason(s)

##### Condition 1

The works hereby permitted shall commence 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.

##### Condition 2

The works hereby permitted shall only be implemented in accordance with the approved plan(s) / document(s) listed above.

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

##### Condition 3

The external materials and finishes shall be as indicated on the approved plan(s) and permanently retained as such.

Reason: To ensure the use of appropriate materials having regard to the listed building.

#### Informative(s)

##### Informative 1

Certain species of animals are protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended). It is an offence to damage or destroy a breeding site or resting place of a European Protected Species even when they are not present or deliberately disturb any such animal.

As it has been identified that bat roosts will be impacted during works to the listed building, the LPA is obliged to advise that mitigation measures are finalised and/or the works are adjusted to reduce potential impacts to these protected species during the construction phase. Mitigation measures to limit the harm to protected species MUST be in place prior to the commencement of any of the works subject to this

consent. This is to ensure the conservation of protected and Priority species under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

Failure to discharge this obligation may give rise to a criminal offence.

With evidence of the presence of bats in the listed building, works **MUST NOT**, under any circumstances, commence until such time as the landowner, relevant companies, individuals and/or employing organisations have secured either:

- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead; or
- b) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

This is to conserve protected species under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s17 Crime & Disorder Act 1998.

The penalty for breaches of the above legislative requirements by companies, individuals and/or the employing organisations an unlimited fine per incident and/or a 6-month custodial sentence. As the Courts will decide whether the offence could reasonably have been avoided, assessment for the potential disturbance of protected species is essential before work is carried out.

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

LPP57	Heritage Assets and their Settings
LPP64	Protected Sites
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity

APPENDIX 3:

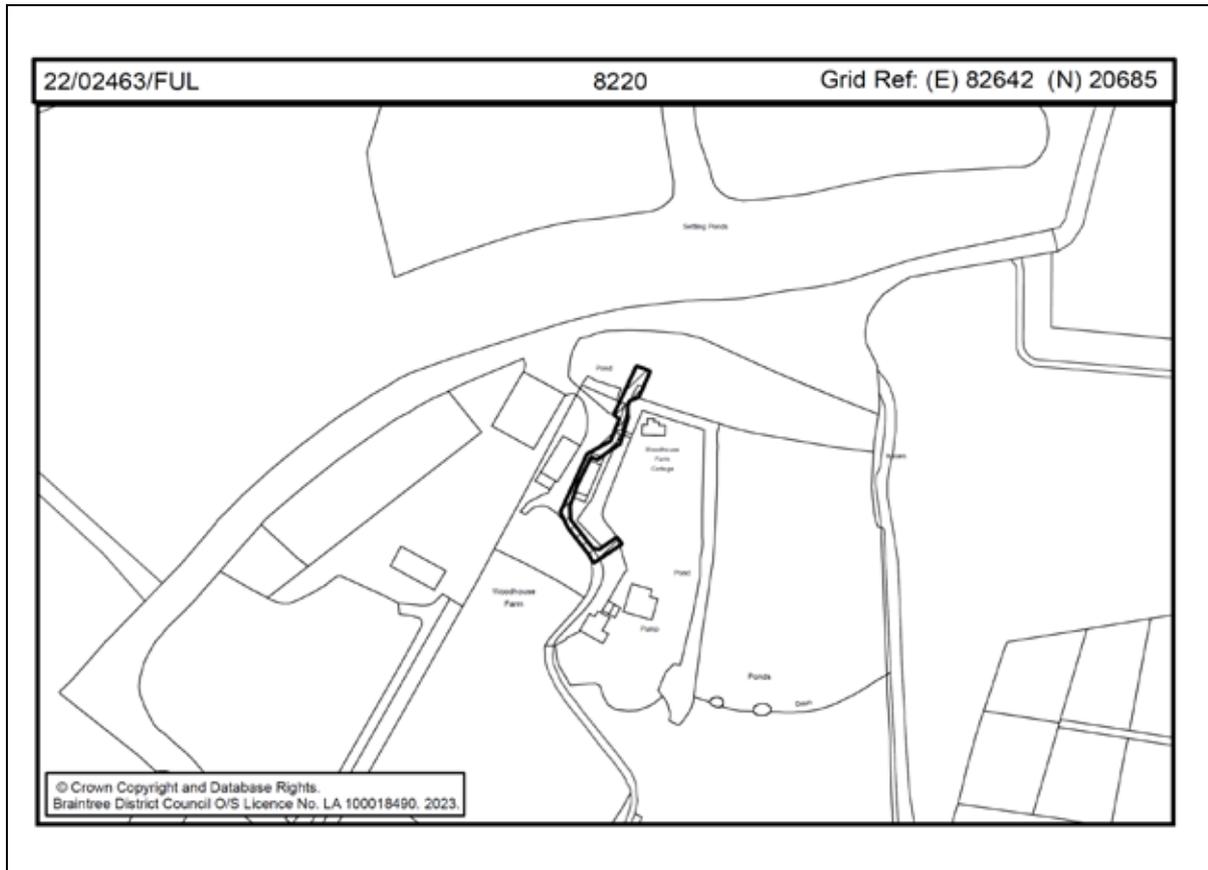
SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
15/01191/LBC	Repair and refurbishment	Granted	26.09.17
21/00721/DAC	Application for approval of details as reserved by condition/s 4A, 4B, 5, 6 and 7 of approved application 15/01191/LBC	Part Grant, Part Refused	02.06.21
22/02463/FUL	Installation of timber post and rail fence, including one pedestrian gate providing private access.	Pending Decision	
22/02464/FUL	Refurbishment, extension and fencing of existing agricultural steel barn and brick-built lean-to shed to create workshop and enclosed yard space that can be used by local community groups (Class D2).	Pending Decision	
22/02739/ECC	Notification of planned abnormal loads on 24 October 2022, 1 November 2022 and 21 November 2022. Notification as required by condition 8 of ESS/34/15/BTE. ESS/34/15/BTE was for an Integrated Waste Management Facility.	Deemed Permitted	14.10.22
22/02863/LBC	Consolidate, conserve and repair the remains of the walls and fabric to the Feed Barn, comprising the recording and removal of timber walls, concrete footings, timber posts and metal fence, C20 block wall and C20 concrete floor and the retention and minor repair of surviving brick plinth walls and farmyard brick wall	Pending Decision	

23/00351/FUL	Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats.	Pending Decision	
23/00352/LBC	Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats.	Pending Decision	

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 17th October 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	22/02463/FUL
<b>Description:</b>	Installation of timber post and rail fence, including one pedestrian gate providing private access.
<b>Location:</b>	Woodhouse Farm Cottage, Woodhouse Lane, Kelvedon
<b>Applicant:</b>	Mr Gareth Jones, Indaver Rivenhall Limited, Woodhouse Farm, Woodhouse Lane, Kelvedon, Essex, CO5 9DF
<b>Agent:</b>	Mr Steven Smith, Honace Limited, 820 The Crescent, Colchester Business Park, Colchester, CO4 9YQ
<b>Date Valid:</b>	15th September 2022
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Conditions & Reasons and Informatives outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can: a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Approved Plans & Documents Conditions & Reasons and Informatives
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Fiona Hunter For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2521, or by e-mail: <a href="mailto:fiona.hunter@braintree.gov.uk">fiona.hunter@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	<p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
<b>Legal Implications:</b>	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications:</b>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</li> </ul>

	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/02463/FUL.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013-2033)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

- 1.1 This application considers the erection of a post and rail fence and associated access gate alongside an existing PRow (Footpath 8 Kelvedon) in order to separate the PRow from an existing moat.
- 1.2 The application forms one of a number of applications which considers development on the wider 'Woodhouse Farm Complex', located to the east of Silver End and to the north of Kelvedon.
- 1.3 There have been no identified harms when considering the merits of the application.
- 1.4 Taking these factors into account, the application is recommended for approval.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation, as the application is deemed to be 'significant' by the Planning Development Manager.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site forms part of a wider site, known as the 'Woodhouse Farm Complex'. This site is set within an area which has been subject to a number of applications to Essex County Council for the Indaver Waste Management Facility (IWMF) on the former Rivenhall airfield. This application forms one of a number of proposals which seek to satisfy a condition set out within the IWMF permissions to provide a visitor and education centre at Woodhouse Farm and associated buildings. This is set out within Condition 68 of ESS/34/15/BTE which states:

*'Within 6 years of the date of commencement of development as notified under condition 1, Woodhouse Farm and buildings shall be refurbished to a visitor and education centre.'*

The Section 106 agreement for associated with ESS/37/08/BTE further stipulates that:

*'Subject to obtaining all necessary consents to use reasonable endeavours to reinstate and refurbish the Woodhouse Farm Complex to include offices, an education centre for the public and an area set aside as a local heritage and airfield museum prior to the commencement of Beneficial Use of the Waste Management Facility'.*

5.2 The wider site is formed of a number of listed buildings and barns, which are in various states of repair. The site is accessed from Woodhouse Lane, which runs to the south of the site, along with an access which runs through the Waste Management Facility from the A120.

5.3 At present, the site subject to this application features heras style security fencing along the perimeter, roughly following the line of the proposed fencing.

5.4 This application has been submitted alongside a number of applications across the wider 'Woodhouse Farm Complex' as set out below:

23/00351/FUL & 23/00352/LBC - Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats;

22/02462/LBC - Repair of existing roof structure, enclosure, chimneys, first floor ceiling, rainwater goods. Installation of new bat access features;

22/02863/LBC - Consolidate, conserve and repair the remains of the walls and fabric to the Feed Barn, comprising the recording and removal of timber walls, concrete footings, timber posts and metal fence, C20 block wall and C20 concrete floor and the retention and minor repair of surviving brick plinth walls and farmyard brick wall; and

22/02464/FUL - Refurbishment, extension and fencing of existing agricultural steel barn and brick-built lean-to shed to create workshop and enclosed yard space that can be used by local community groups (Class D2).

5.5 The above applications are also being reported to Planning Committee on 17th October 2023.

## 6. PROPOSAL

6.1 This application seeks the erection of post and rail fence along the boundary of the existing moat at the site, to provide separation from Woodhouse Cottage and its surrounding land from the adjacent public footpath.

6.2 The proposed post and rail fencing would be approximately 95 metres in length, with the insertion of a pedestrian gate to provide access to Woodhouse Cottage.

6.3 The proposed fencing would be post and rail in design, constructed of painted black timber. The fencing would have a height of 1.2 metres above ground level, with a three bar configuration. The proposed pedestrian access gate would be situated between posts of a height of 1.4 metres and would be a five bar arrangement. The gate would also be timber stained black to match the proposed fencing.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 ECC Historic Buildings Consultant

7.1.1 No objection, the proposed fence/railings are considered appropriate for the site, constructed in a suitable material for the sensitive, former agricultural site.

### 7.2 ECC Minerals and Waste

7.2.1 No objection.

## 8. PARISH / TOWN COUNCIL

### 8.1 Kelvedon Parish Council

8.1.1 No comment and no objection.

## 9. REPRESENTATIONS

9.1 No letters of representation have been received in connection with this application.

## 10. PRINCIPLE OF DEVELOPMENT

10.1 The application site is located within the countryside to the east of Silver End and north of Rivenhall. Policy LPP1 of the Adopted Local Plan sets out that development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.

10.2 The proposal would see the erection of post and rail fencing to provide safety and access in association with the use of the 'Woodhouse Farm Complex'. The proposed provision of fencing would accord with Policy LPP1 of the Adopted Local Plan, subject to design and amenity considerations.

## 11. SITE ASSESSMENT

### 11.1 Design, Appearance and Impact upon the Character and Appearance of the Area

11.1.1 Policy LPP52 of the Adopted Local Plan require designs to reflect or enhance local distinctiveness in terms of scale, layout, height, and massing of buildings, and be in harmony with the character and appearance of the surrounding area.

11.1.2 The proposed fencing would be post and rail in design, constructed of a black stained timber. The application site is located within the countryside,

set within a previously agricultural setting. The design of the fencing would be appropriate to the agrarian location and would provide a sensitive addition to the historically significant site. The proposals would also provide a legible boundary to the public footpath, with a vast improvement visually from the existing security fencing.

## 11.2 Heritage

11.2.1 Policy LPP57 of the Adopted Local Plan states that the Council will seek to preserve and enhance immediate settings of heritage assets by appropriate control over the development, design, and use of adjoining land.

11.2.2 The proposal to the west of the Grade II listed building known as Woodhouse Farm Cottage. The Historic Buildings Consultant has provided comments on the application, offering no objection to the proposals due to the use of suitable materials for the sensitive, former agricultural site. The proposed fencing is therefore appropriate to the site, protecting the setting of the identified heritage assets.

## 11.3 Highway Considerations

11.3.1 Policy LPP52 of the Adopted Local Plan require that new developments should not have a detrimental impact on the safety of highways and their users. Policy LPP43 of the Adopted Local Plan requires that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks.

11.3.2 The application seeks the erection of fencing alongside an existing public right of way (Footpath 8 Kelvedon). The proposed fencing would not conflict with the existing public right of way and access would be unobstructed.

## 12. CONCLUSION

12.1 Overall, it is considered that there have been no harms identified as a result of the proposals. The proposed fencing would be in harmony with the character and appearance of the area and would seek to retain the agrarian setting. Against this context, it is recommended that planning permission be granted for the proposed development.

## 13. RECOMMENDATION

13.1 It is RECOMMENDED that the following decision be made:  
Application GRANTED in accordance with the Approved Plans and Documents, and subject to the Conditions & Reasons, and Informatives outlined within APPENDIX 1.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

### APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)

#### Approved Plan(s) & Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Proposed Plans	1850 Rev F	N/A
Location Plan	0010	N/A
Proposed Plans	1825 REV G	N/A

#### Condition(s) & Reason(s)

##### Condition 1

The development hereby permitted shall commence 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 (as amended).

##### Condition 2

The development hereby permitted shall only be implemented in accordance with the approved plan(s) / document(s) listed above.

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

##### Condition 3

The external materials and finishes shall be as indicated on the approved plan(s) and permanently retained as such.

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

#### Informative(s)

The Applicant is advised that the public's rights and ease of passage over Footpath 8 Kelvedon must be maintained free and unobstructed at all times.

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and has granted planning permission in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings

APPENDIX 3:

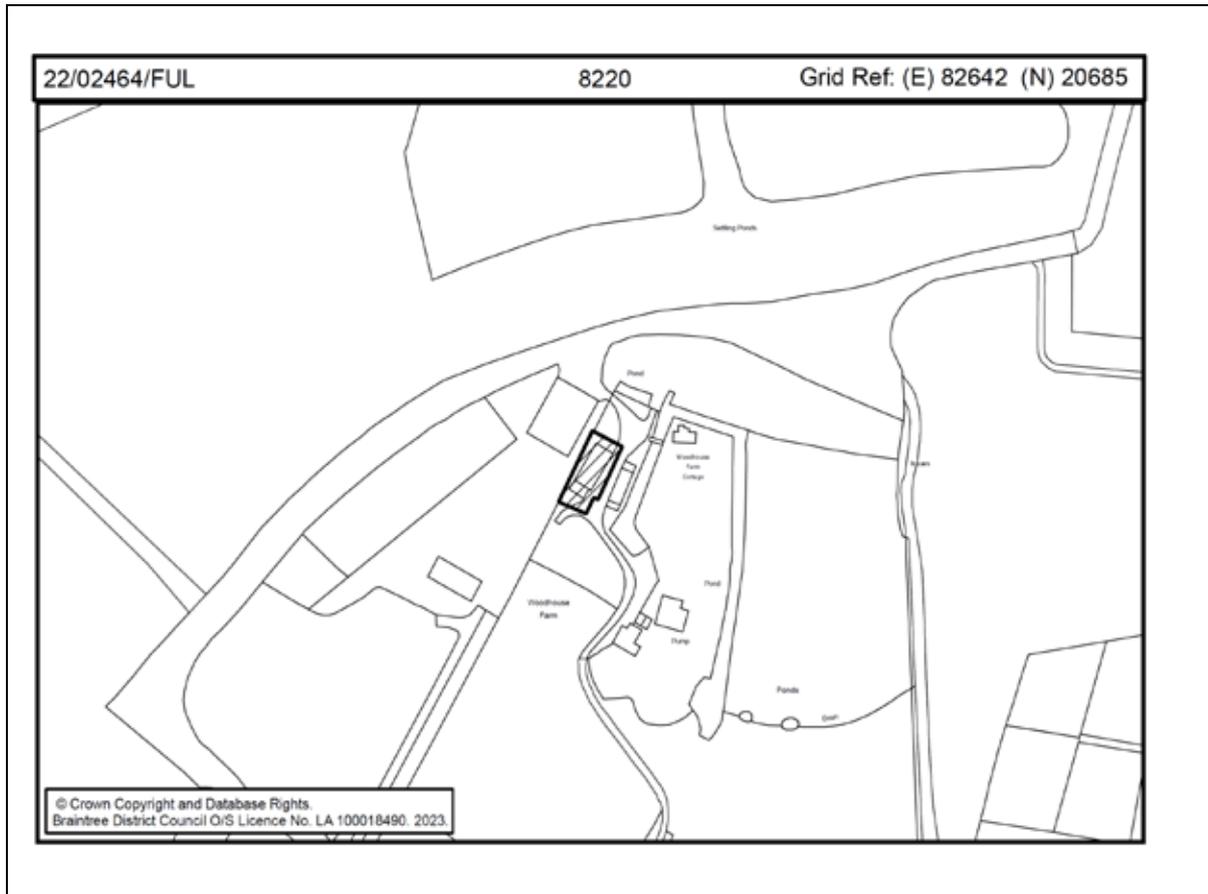
SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
15/01191/LBC	Repair and refurbishment	Granted	26.09.17
21/00721/DAC	Application for approval of details as reserved by condition/s 4A, 4B, 5, 6 and 7 of approved application 15/01191/LBC	Part Grant, Part Refused	02.06.21
22/02462/LBC	Repair of existing roof structure, enclosure, chimneys, first floor ceiling, rainwater goods; and Installation of new bat access features.	Pending Decision	
22/02464/FUL	Refurbishment, extension and fencing of existing agricultural steel barn and brick-built lean-to shed to create workshop and enclosed yard space that can be used by local community groups (Class D2).	Pending Decision	
22/02739/ECC	Notification of planned abnormal loads on 24 October 2022, 1 November 2022 and 21 November 2022. Notification as required by condition 8 of ESS/34/15/BTE. ESS/34/15/BTE was for an Integrated Waste Management Facility.	Deemed Permitted	14.10.22
22/02863/LBC	Consolidate, conserve and repair the remains of the walls and fabric to the Feed Barn, comprising the recording and removal of timber walls, concrete footings, timber posts and metal fence, C20 block wall and C20 concrete floor and the retention and minor repair of surviving brick plinth walls and	Pending Decision	

	farmyard brick wall		
23/00351/FUL	Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats.	Pending Decision	
23/00352/LBC	Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats.	Pending Decision	

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 17th October 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	22/02464/FUL
<b>Description:</b>	Refurbishment, extension and fencing of existing agricultural steel barn and brick-built lean-to shed to create workshop and enclosed yard space that can be used by local community groups (Class D2).
<b>Location:</b>	Woodhouse Farm Cottage, Woodhouse Lane, Kelvedon
<b>Applicant:</b>	Mr Gareth Jones, Indaver Rivenhall Limited, Woodhouse Farm, Woodhouse Lane, Kelvedon, Essex, CO5 9DF
<b>Agent:</b>	Mr Steven Smith, Honace Limited, 820 The Crescent, Colchester Business Park, Colchester, CO4 9YQ
<b>Date Valid:</b>	6th October 2022
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made: § Application GRANTED subject to the Condition) & Reasons and Informatives outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can: a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overtturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Approved Plans & Documents Conditions & Reasons and Informatives
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Fiona Hunter For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2521, or by e-mail: <a href="mailto:fiona.hunter@braintree.gov.uk">fiona.hunter@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	<p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
<b>Legal Implications:</b>	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications:</b>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</li> </ul>

	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council’s Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/02464/FUL.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013-2033)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD’s) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council’s website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application seeks planning permission for the repair and refurbishment of an existing barn and lean-to building to create a building for community use and as a workshop.
- 1.2 The application forms one of a number of applications which considers development on the wider 'Woodhouse Farm Complex', located to the east of Silver End and to the north of Kelvedon.
- 1.3 The principle of the development is considered to be acceptable, owing to the provision of a community use within a barn on previously developed land. The proposed design and appearance is considered to be acceptable, and no harms have been identified to the setting of the nearby listed buildings.
- 1.4 Overall, taking these factors into account, the application is recommended for approval.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation, as the application is deemed to be 'significant' by the Planning Development Manager.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site forms part of a wider site, known as the 'Woodhouse Farm Complex'. This site is set within an area which has been subject to a number of applications to Essex County Council for the Indaver Waste Management Facility (IWMF) on the former Rivenhall airfield. This application forms one of a number of proposals which seek to satisfy a condition set out within the IWMF permissions to provide a visitor and education centre at Woodhouse Farm and associated buildings. This is set out within Condition 68 of ESS/34/15/BTE which states:

*'Within 6 years of the date of commencement of development as notified under condition 1, Woodhouse Farm and buildings shall be refurbished to a visitor and education centre.'*

The Section 106 agreement for associated with ESS/37/08/BTE further stipulates that:

*'Subject to obtaining all necessary consents to use reasonable endeavours to reinstate and refurbish the Woodhouse Farm Complex to include offices, an education centre for the public and an area set aside as a local heritage and airfield museum prior to the commencement of Beneficial Use of the Waste Management Facility'.*

5.2 The wider site is formed of a number of listed buildings and barns, which are in various states of repair. The site is accessed from Woodhouse Lane, which runs to the south of the site, along with an access which runs through the Waste Management Facility from the A120.

5.3 The application site, the subject of this report, currently consists of a barn, known as the High Barn, which is a steel framed building with an open frontage. The barn is in a state of disrepair, with vegetation over some parts of the roofs and walls. To the bottom half of the walls is concrete blockwork, with metal cladding to the upper half and roof. Elements of the existing cladding are asbestos. A single storey element to the side is brickwork with

timber, and also in a state of disrepair. A Public Right of Way (Footpath 8 Kelvedon) runs to the front of the site. At present, the barn is used for storage of materials from other buildings on the site including tiles and timber framing.

- 5.4 This application has been submitted alongside a number of piecemeal applications across the wider 'Woodhouse Farm Complex' as set out below:

23/00351/FUL & 23/00352/LBC - Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats;

22/02462/LBC - Repair of existing roof structure, enclosure, chimneys, first floor ceiling, rainwater goods. Installation of new bat access features;

22/02863/LBC - Consolidate, conserve, and repair the remains of the walls and fabric to the Feed Barn, comprising the recording and removal of timber walls, concrete footings, timber posts and metal fence, C20 block wall and C20 concrete floor and the retention and minor repair of surviving brick plinth walls and farmyard brick wall; and

23/02463/FUL - Installation of timber post and rail fence, including one pedestrian gate providing private access.

- 5.5 The above applications are also being reported to Planning Committee on 17th October 2023.

## 6. PROPOSAL

- 6.1 The proposal seeks the repair and refurbishment of the existing barn buildings to create a building for community use and as a workshop. The submitted information states that whilst the proposal would be for community use, access would be by arrangement.
- 6.2 It is proposed that the building would be accessed from Woodhouse Lane, and would utilise the existing car park for the Indaver site to the north west of the High Barn.
- 6.3 The proposals seek the removal of the existing southern side wall to allow for the creation of a 'second half' to the existing lean to. This would create a shed type building, half constructed underneath the main barn. Gates would be constructed to the frontage, to create a secure enclosed area within the main barn.

6.4 To the existing brick built lean to, the following works would be undertaken:

- Extension northwards beneath high barn
- Replacement of roof, with a raise in height of the roof
- Installation of rainwater goods
- Repair timber windows
- Lifting and relaying existing brick floor
- Repair and repointing existing brick walls
- Replacement timber doors and walls
- Installation of insulation
- Creation of w/c

6.5 To the existing high barn, the following works are proposed:

- Removal of existing asbestos cladding and part replacement with cladding
- Replacement of rainwater goods
- Repair and painting of existing steel frame, with additional steel framing
- Installation of metal fencing/gates to frontage

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 BDC Ecology

7.1.1 No objection. Recommend informatives regarding nesting birds and good practice.

### 7.2 ECC Archaeology

7.2.1 Due to the scale and nature of the works there is unlikely to be any significant impact on below ground archaeological remains and there is no objection to the works proposed to the building.

### 7.3 ECC Highways

7.3.1 The impacts of the proposals are acceptable from a highway and transport perspective, subject to conditions regarding a construction traffic management plan, and the public right of way maintained free and unobstructed. The PROW team also provided comments stating that the proposal is acceptable subject to the footpath being maintained open at all times with no obstructions, and the existing surface material is to be retained.

### 7.4 ECC Historic Buildings Consultant

7.4.1 The proposal will enhance the setting of the listed building, finding a positive use for an otherwise redundant structure. The materials are sympathetic to the location and well thought out, I am supportive of the proposals as detailed on the supporting drawings and within the design and access statement.

7.5 ECC Minerals and Waste

7.5.1 No objection subject to access from the IWMF/Quarry access road. Make note that the permissions associated with the IWMF facility do not require the High Barn to be used for community use.

8. PARISH / TOWN COUNCIL

8.1 Kelvedon Parish Council

8.1.1 No comments and no objection.

9. REPRESENTATIONS

9.1 Four letters of representation were received during the lifetime of the application, two of support and two of objection. The comments can be outlined as follows:

Objections:

- Potential noisy uses
- Impacts on wildlife
- Conflict with PRow
- Should be for use of local community
- Potential for parking on PRow

Support:

- Benefits to existing community groups
- Space for community uses

9.2 Ramblers Association submitted an objection subject to clarification of the vehicle access route and the vehicle parking arrangements. Raise points regarding access being from Woodhouse Lane, the volume of traffic, potential upgrades to the PRow, design of gates, facilities for users with disabilities, waste management and lighting.

10. PRINCIPLE OF DEVELOPMENT

10.1 The application site is located within the countryside to the east of Silver End and north of Rivenhall. Policy LPP1 of the Adopted Local Plan sets out that development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.

10.2 The application would see the repair and extension of an existing building to provide a community use as part of the wider works proposed in association with the Waste Management Facility. Policy LPP61 of the Adopted Local Plan states that the provision of new or enhanced community facilities will be supported wherever possible. The NPPF states in Paragraph 84 that planning decisions should enable the retention and

development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses, and places of worship.

10.3 The NPPF further stipulates that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

10.4 It is pertinent to note that whilst this is a standalone application, it has been submitted with a number of applications which seek to satisfy the conditions of permissions with regards to the IWMF. Whilst this does not require there to be a community use specifically, this application has been submitted to consider the refurbishment of the High Barn. It is considered that the proposed community uses would accord with the intentions of Policy LPP61 of the Adopted Local Plan and the NPPF which allows for the provision of community facilities within the countryside, particularly when considering the use of previously developed land.

## 11. SITE ASSESSMENT

### 11.1 Design, Appearance and Impact upon the Character and Appearance of the Area

11.1.1 Policy LPP52 of the Adopted Local Plan require designs to reflect or enhance local distinctiveness in terms of scale, layout, height, and massing of buildings, and be in harmony with the character and appearance of the surrounding area.

11.1.2 The proposal seeks the retention and refurbishment of an existing barn building. The proposed changes would upgrade the barn which is currently only in use for storage of materials from other parts of the site. The proposed changes would be in keeping with the agricultural character of the barn, retaining many of the original elements of the main barn, and seeking to replicate the existing lean-to style building by mirroring this within the shelter of the large barn. Furthermore, the proposed materials used would be in keeping with the character of the agrarian setting, in accordance with the above policy.

## 11.2 Heritage

- 11.2.1 Policy LPP57 of the Adopted Local Plan states that the Council will seek to preserve and enhance immediate settings of heritage assets by appropriate control over the development, design, and use of adjoining land.
- 11.2.2 The site is within the setting of a number of listed buildings, including Woodhouse Farm Cottage and Woodhouse Farm. The Historic Buildings Consultant has provided comments on the application, stating that the proposal would enhance the setting of the listed building of Woodhouse Farm, and would find a positive use for a redundant structure. The materials proposed would be sympathetic to the location and well thought out.
- 11.2.3 It is considered that the proposals would not amount to any material harm to the setting of the listed buildings. The proposal therefore accords with Policy LPP57 of the Adopted Local Plan.

## 11.3 Ecology

- 11.3.1 Policy LPP66 of the Adopted Local Plan states that development proposals shall provide for the protection of biodiversity and the mitigation or compensation of any adverse impacts. Additionally, enhancement of biodiversity should be included in all proposals, commensurate with the scale of development.
- 11.3.2 The Council's Ecological Consultant has provided comments on the application stating that they do not consider the High Barn to contain suitable habitat for protected or priority species, with the exception that breeding birds may nest within the building. No objection is raised to the proposals from an ecological perspective.
- 11.3.3 Furthermore, owing to the ecological enhancements proposed at the wider Woodhouse Farm Complex, it is considered that no additional enhancement measures are required as part of the refurbishment of High Barn.

## 11.4 Highway Considerations

- 11.4.1 Paragraph 111 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development on the road network would be severe.
- 11.4.2 Policy LPP42 of the Adopted Local Plan seeks to safeguard existing Public Rights of Way... development which would adversely affect the character of, or result in loss of existing or proposed rights of way, will not be permitted unless alternative routes or diversions can be arranged which are at least as attractive, safe and convenient for public use.

11.4.3 The Applicant has undertaken extensive communications with ECC Highways following the submission of this application and the other applications as outlined above. The proposal seeks to utilise Woodhouse Lane to access the Indaver car park and for access to the site. The use of the site would be by appointment only and would be controlled by the Applicant. Following the discussions, ECC Highways set out that the impacts of the proposals are acceptable from a highway and transport perspective subject to recommended conditions.

11.4.4 The Public Right of Way team also provided comments outlining that they were content with the proposals, assuming the PRoW remains open at all times, there are to be no obstructions or encroachments, there is to be full consideration to user safety during works, and the existing surface is to be retained.

#### 11.5 Impact upon Neighbouring Residential Amenity

11.5.1 Policy LPP52 of the Adopted Local Plan states there shall be no unacceptable impact on the amenity of any nearby properties including on privacy, overshadowing, loss of light and overbearing impact.

11.5.2 The application site is located away from residential properties, within the established Woodhouse Farm Complex and the wider IWMF site. It is therefore considered that the proposals would not have a detrimental impact on neighbouring amenity.

### 12. CONCLUSION

12.1 The proposals seek the refurbishment of an existing agricultural building for community uses. Overall, the proposals are considered to be well-designed for the agrarian setting, whilst utilising appropriate materials. No harms have been identified when assessing the proposals, and Officers consider the proposals would accord with the relevant policies within the Adopted Local Plan.

12.2 Against this context, it is recommended that planning permission be granted for the proposed development.

### 13. RECOMMENDATION

13.1 It is RECOMMENDED that the following decision be made:  
Application GRANTED in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

### APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)

#### Approved Plan(s) & Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Location Plan	0010	B
Proposed Site Plan	1029	N/A
Proposed Plans	1500	N/A

#### Condition(s) & Reason(s)

##### Condition 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.

##### Condition 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.

##### Condition 3

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

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

##### Condition 4

Prior to commencement of the development a construction traffic management plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan.

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

#### Informative(s)

##### Informative 1

The applicant is reminded that, under the Wildlife & Countryside Act 1981 as amended (section 1), it is an offence to remove, damage, or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development

does not provide a defence against prosecution under this act. High Barn may contain nesting birds between 1st March and 31st August inclusive. Therefore, nesting birds should be assumed to be present in the building between the above dates, unless a recent survey has been undertaken by a competent ecologist and has shown it is absolutely certain that birds are not present.

#### Informative 2

To avoid killing or injuring small animals which may pass through the site during the construction phase, it is best practice to ensure the following measures are implemented:

- a) Trenches, pits or holes dug on site should be covered over at night. Alternatively, ramps (consisting of a rough wooden plank) or sloped/stepped trenches could be provided to allow animals to climb out unharmed;
- b) materials brought to the site for the construction works should be kept off the ground on pallets to prevent small animals seeking refuge;
- c) rubbish and waste should be removed off site immediately or placed in a skip, to prevent small animals using the waste as a refuge; and
- d) should any protected species or evidence of protected species be found prior to or during the development, all works must immediately cease and a suitably qualified ecologist must be contacted for further advice before works can proceed. All contractors working on site should be made aware of the advice and provided with the contact details of a relevant ecological consultant.

#### Informative 3

The Applicant is advised that the public rights and ease of passage over Footpath 8 Kelvedon must be maintained free and unobstructed at all times.

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and has granted planning permission in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP61	Local Community Services and Facilities
LPP64	Protected Sites
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity

APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
15/01191/LBC	Repair and refurbishment	Granted	26.09.17
21/00721/DAC	Application for approval of details as reserved by condition/s 4A, 4B, 5, 6 and 7 of approved application 15/01191/LBC	Part Grant, Part Refused	02.06.21
22/02462/LBC	Repair of existing roof structure, enclosure, chimneys, first floor ceiling, rainwater goods; and Installation of new bat access features.	Pending Decision	
22/02463/FUL	Installation of timber post and rail fence, including one pedestrian gate providing private access.	Pending Decision	
22/02739/ECC	Notification of planned abnormal loads on 24 October 2022, 1 November 2022 and 21 November 2022. Notification as required by condition 8 of ESS/34/15/BTE. ESS/34/15/BTE was for an Integrated Waste Management Facility.	Deemed Permitted	14.10.22
22/02863/LBC	Consolidate, conserve and repair the remains of the walls and fabric to the Feed Barn, comprising the recording and removal of timber walls, concrete footings, timber posts and metal fence, C20 block wall and C20 concrete floor and the retention and minor repair of surviving brick plinth walls and farmyard brick wall	Pending Decision	
23/00351/FUL	Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and	Pending Decision	

	walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats.		
23/00352/LBC	Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats.	Pending Decision	
15/01191/LBC	Repair and refurbishment	Granted	26.09.17
16/00576/DAC	Application for approval of details reserved by condition nos. 13, 18 and 20 of approved application 14/01644/FUL	Granted	14.07.16
21/00721/DAC	Application for approval of details as reserved by condition/s 4A, 4B, 5, 6 and 7 of approved application 15/01191/LBC	Part Grant, Part Refused	02.06.21
21/03318/TPO	Notice of intent to carry out works to trees protected by Tree Preservation Order 11/01 -	Granted	21.12.21

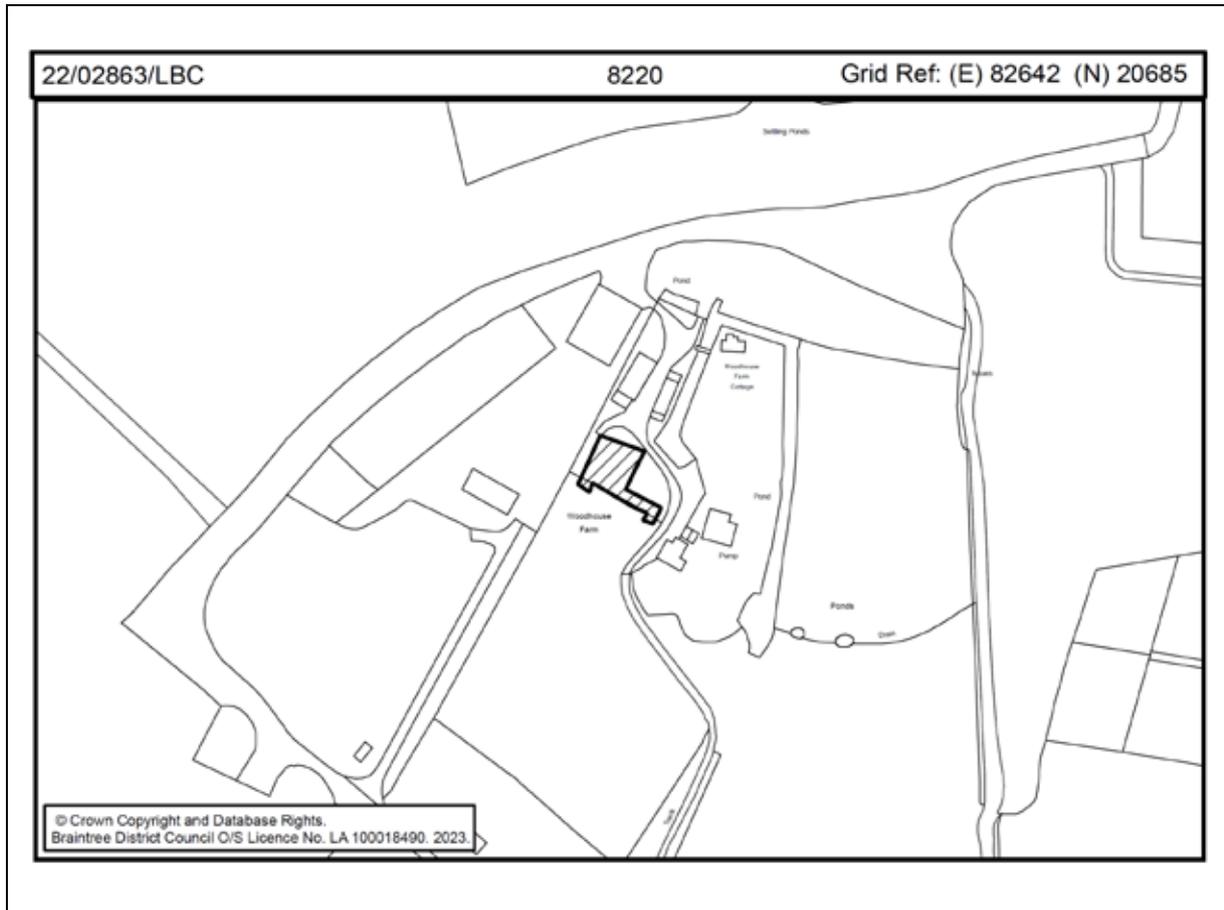
	<p>Details of this complex application are in the report. Also subject to a Felling Licence application. All for safety reasons/and or landscape improvement, all at Woodhouse Farm. T1 ash crown lift to 3m, T6, G9 crack willow - fell, T65, T66, T67, T68, T69, T70, T71, T72, T73, Lombardy poplars - fell; G74 mixed - crown lift to 3m, Airman's walk group 20x elm, 1 x blackthorn, 3 x hawthorn - fell, 2 x hazel - coppice; G102 - crown lift to 3m and coppice small ash to the south of T99, T104 ash - coppice, T113 oak, reduce over extended branches by 1m to balance; T114 field maple - coppice, T120 hazel - coppice, T123 hawthorn - fell, T126 ash - fell, T127 oak - fell, G128 ash - fell, G129 goat willow - fell, T133 oak - fell, T134 oak - fell; all trees on southern part of wood TPO W1 - crown lift to 5.5m over track; all trees on the northern side of TPO W3 - crown lift to 5.5m over track; T5 oak - crown lift to 5.5m over the track, W6 mixed - crown lift to 5.5m over the track, T10 oak - crown reduce by 1.5m to balance, T11 goat willow - coppice, G14 3 x field maple - crown lift to 5.5m over the track, T17 oak - crown lift to 5.5m over the track, T19, T20, T26 oak and T27 oak - crown lift to 5.5m over track and T21</p>		
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	Koster oak - remove tree and roots.		
22/00261/ECC	Consultation on Essex County Council application no. ESS/01/22/BTE - Temporary use of Woodhouse Lane by non HGV vehicles to provide access for visitors and staff to the Rivenhall Integrated Waste Management Facility Information Hub and construction of temporary traffic management measures.	Granted	29.04.22
22/00550/ADV	Installation of: - 2 x non-illuminated post-mounted 1.6m high signs	Granted	25.04.22
22/01225/ECCDAC	Consultation on Essex County Council -Details pursuant to condition 3 (Road/footpath signage) of ESS/01/22/BTE. ESS/01/22/BTE was for "Temporary use of Woodhouse Lane by non-HGV vehicles to provide access for visitors and staff to the Rivenhall Integrated Waste Management Facility Information Hub and construction of temporary traffic management measures."	No Objections Raised	02.08.22
23/00623/ECCDAC	Notification in accordance with condition 4 (Hours of use) of ESS/01/22/BTE to allow the Woodhouse Lane access to be used for an event on Saturday 22nd and Sunday 23rd April 2023. ESS/01/22/BTE was for "Temporary use of Woodhouse Lane by non HGV vehicles to provide access for visitors and		08.03.23

	staff to the Rivenhall Integrated Waste Management Facility Information Hub and construction of temporary traffic management measures BDC did not receive application originally		
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<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 17th October 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	22/02863/LBC
<b>Description:</b>	Consolidate, conserve and repair the remains of the walls and fabric to the Feed Barn, comprising the recording and removal of timber walls, concrete footings, timber posts and metal fence, C20 block wall and C20 concrete floor and the retention and minor repair of surviving brick plinth walls and farmyard brick wall
<b>Location:</b>	Woodhouse Farm Cottage, Woodhouse Lane, Kelvedon
<b>Applicant:</b>	Mr Gareth Jones, Woodhouse Farm, Woodhouse Lane, Kelvedon, Essex, CO5 9DF
<b>Agent:</b>	Mr Steven Smith, Honace Limited, 820 The Crescent, Colchester Business Park, Colchester, CO4 9YQ
<b>Date Valid:</b>	25th October 2022
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Conditions & Reasons and Informatives outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overtturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Approved Plans & Documents Conditions & Reasons and Informatives
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Fiona Hunter For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2521, or by e-mail: <a href="mailto:fiona.hunter@braintree.gov.uk">fiona.hunter@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.
<b>Legal Implications:</b>	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications:</b>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</li> </ul> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The</p>

	<p>Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/02863/LBC.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013-2033)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

- 1.1 This application considers works to a curtilage listed barn, which currently consists of remains with very little left of the original building.
- 1.2 The works would seek to reinstate elements of the barn to form a heritage exhibition to show the use of the barn in the context of the Woodhouse Farm Complex over time.
- 1.3 There have been no identified harms when considering the merits of the application.
- 1.4 Taking these factors into account, the application is recommended for approval.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation, as the application is deemed to be 'significant' by the Planning Development Manager.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site forms part of a wider site, known as the 'Woodhouse Farm Complex'. This site is set within an area which has been subject to a number of applications to Essex County Council for the Indaver Waste Management Facility (IWMF) on the former Rivenhall airfield. This application forms one of a number of proposals which seek to satisfy a condition set out within the IWMF permissions to provide a visitor and education centre at Woodhouse Farm and associated buildings. This is set out within Condition 68 of ESS/34/15/BTE which states:

*'Within 6 years of the date of commencement of development as notified under condition 1, Woodhouse Farm and buildings shall be refurbished to a visitor and education centre.'*

The Section 106 agreement for associated with ESS/37/08/BTE further stipulates that:

*'Subject to obtaining all necessary consents to use reasonable endeavours to reinstate and refurbish the Woodhouse Farm Complex to include offices, an education centre for the public and an area set aside as a local heritage and airfield museum prior to the commencement of Beneficial Use of the Waste Management Facility'*

5.2 The wider site is formed of a number of listed buildings and barns, which are in various states of repair. The site is accessed from Woodhouse Lane, which runs to the south of the site, along with an access which runs through the Waste Management Facility from the A120.

5.3 This application has been submitted alongside a number of piecemeal applications across the wider 'Woodhouse Farm Complex' as set out below:

23/00351/FUL & 23/00352/LBC - Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing

and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats;

22/02462/LBC - Repair of existing roof structure, enclosure, chimneys, first floor ceiling, rainwater goods. Installation of new bat access features;

22/02464/FUL - Refurbishment, extension and fencing of existing agricultural steel barn and brick-built lean-to shed to create workshop and enclosed yard space that can be used by local community groups (Class D2); and

23/02463/FUL - Installation of timber post and rail fence, including one pedestrian gate providing private access.

5.4 The above applications are also being reported to Planning Committee on 17th October 2023.

## 6. PROPOSAL

6.1 This application seeks listed building consent for the repair of the remains of the Feed Barn, which is currently in a derelict state with little of the original barn's structure remaining. The proposals seek to repair certain elements of this in order to enable the retention of existing historic fabric which without further intervention would continue to decline.

6.2 The works would enable the remains of the Feed Barn to be read within the context of the Woodhouse Farm Complex, with the removal of more modern fabric from the site and allowing visitors to the site to view the evolution of the site and appreciate the historic use as a farmstead. The proposals would also seek to increase the safety of the site.

6.3 The proposed works would include:

- Recording and removal of surviving remains of the Feed Barn's timber walls (which are in a very poor and unsafe condition) including timber sole plates, wall plates, studs, external weatherboarding, internal timber kicking boards, timber boarded door and frame, and C20 profiled metal sheeting.
- Removal of timber and metal fence and the concrete footings (which no longer have corresponding timber posts).
- Retention and minor repair of surviving brick plinth walls.
- Retention and minor repair of the farmyard brick wall, reinstating its historic profile.
- Removal of the C20 concrete block walling, including C20 timber casement window.
- Removal of the C20 concrete floor and footing.
- Removal of C20 brickwork at ground level.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 ECC Archaeology

7.1.1 Due to the scale and nature of the proposed works there is unlikely to be any significant impact on below ground archaeological remains and there is no objection to the works proposed to the building.

### 7.2 ECC Historic Buildings Consultant

7.2.1 No objection to the proposals. The application has demonstrated the significance of the surviving fabric, providing clear and convincing justification for the proposed works.

### 7.3 ECC Minerals and Waste

7.3.1 No objection but raise that the site should be accessed from the access road from the A120.

## 8. PARISH / TOWN COUNCIL

### 8.1 Kelvedon Parish Council

8.1.1 No comment and no objection

## 9. REPRESENTATIONS

9.1 No letters of representation have been received in connection with this application.

## 10. PRINCIPLE OF DEVELOPMENT

10.1 The application site is located within the countryside to the east of Silver End and north of Rivenhall. Policy LPP1 of the Adopted Local Plan sets out that development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.

10.2 The proposal seek works to a curtilage listed structure (or remains of), in order to provide a visual evolution of the use of the application site, and the wider Woodhouse Farm Complex, as a historical farmstead. It is considered that the proposals would accord with a use appropriate to the countryside and would therefore be acceptable in principle subject to further material considerations.

10.3 Policy LPP57 of the Adopted Local Plan sets out that development of internal, or external alterations, or extensions, to a listed building or listed structure (including any structures defined as having equivalent status due

to being situated within the curtilage of a listed building and locally listed heritage assets) will be permitted where the development meets the tests set out in national policy, and the works or uses include the use of appropriate materials and finishes. The alteration of a listed building is therefore supported in principle subject to compliance with the above.

## 11. SITE ASSESSMENT

### 11.1 Design, Appearance and Impact upon Heritage Asset

11.1.1 The application seeks listed building consent for the recording and removal of elements of the curtilage listed Feed Barn. These works seek to retain historic fabric and conserve the remains of the Feed Barn, in a way which would allow the remains to be interpreted as a former farmstead.

11.1.2 The proposals seek the removal of fabric which are considered modern elements of the Feed Barn, and the recording of the removal of any fabric including concrete elements which were C20 additions. The application does not seek to reinstate the Feed Barn as an entirety, instead intending to allow an amount of intervention which demonstrates the location and layout of the Feed Barn, whilst demonstrating the evolution of the site.

11.1.3 The Historic Buildings Consultant has provided comments on the application, stating that they have no objection to the proposals. The proposed methodology to repair sections of surviving walls is appropriate, and the decision to not reinstate the Feed Barn will not result in undue harm to the setting of the listed buildings. They further commented that retaining part of the wall will provide context to the listed buildings, whilst also allowing for the site to be understood as a former farmstead.

11.1.4 Whilst this is an atypical application as it does not consider the repair of the listed building to an extent to which it could be utilised for either its former use or as a building with an alternative use, the context of the wider Woodhouse Farm Complex is an important consideration in the determination of this application. The site as a whole is to be utilised as a visitor and education centre as a demonstration of the complex site history, which the repair and retention of elements of the Feed Barn seeks to display as the structure would act as a heritage exhibition.

## 12. CONCLUSION

12.1 Overall, the proposal would be acceptable from a heritage perspective when considering the use of the site as a whole. No harms have been identified as part of the proposals and consequently it is recommended that listed building consent is granted for the proposals.

13. RECOMMENDATION

- 13.1 It is RECOMMENDED that the following decision be made:  
Application GRANTED in accordance with the Approved Plans and Documents, and subject to the Conditions & Reaso(), and Informatives outlined within APPENDIX 1.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)

Approved Plan(s) & Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Location Plan	0010	N/A
Proposed Site Plan	1030	N/A
Proposed Plans	1800 E	N/A

Condition(s) & Reason(s)

Condition 1

The works hereby permitted shall commence 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.

Condition 2

The works hereby permitted shall only be implemented in accordance with the approved plan(s) / document(s) listed above.

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

Condition 3

The external materials and finishes shall be as indicated on the approved plan(s)/application form and permanently retained as such.

Reason: To ensure the use of appropriate materials having regard to the listed building.

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013 - 2033

LPP57      Heritage Assets and their Settings

APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
01/00895/FUL	Installation of further 9 transmission dishes on tower and addition of further equipment cabin within extended fenced compound	Granted	24.07.01
02/00656/FUL	Proposed reconstruction of two timber sheds for radar research, production, development and test purposes - APPLICATION NOT PROCEEDED WITH		
02/01614/FUL	Reconstruction of two timber sheds		30.12.02
81/01342/P	Continued use of land and retention of existing structure and buildings for research, production, development and test purposes.	Granted	18.01.82
81/01343/P	Continued use of land and retention of existing structures & buildings for research, production, development and test purposes	Granted	12.01.82
88/02184/P	Transfer Radar Test Tower From One End Of Runway To Other	Granted	13.12.88
90/01571/PFWS	Construction Of 11,000 Volt Overhead Line		04.01.91
97/01091/TEL	Installation of telecommunications dishes and antennae and associated equipment cabins	Permission not Required	05.09.97
06/01705/MIN	Proposed enclosed recycling and enclosed composting facility for the treatment of residual waste comprising both municipal and commercial & industrial wastes; Associated engineering	Objections Raised	08.12.06

	works; Extension to existing access road and provision of offices; Vehicle parking; and visitor/education centre		
08/00006/SCO	Scoping Opinion - Recycling and Composting Facility with fully integrated composting, Anaerobic Digestion, Dry Recyclable Recovery, Paper Recycling and Combined Heat and Power Plant; for the treatment of residual waste comprising both municipal and commercial and industrial wastes; using Mechanical Biological Treatment, Material Recovery Facility, a mixed organic waste Anaerobic Digestion plant to generate green power from biogas; a Market De-inked Paper Pulp Factory and a Combined Heat and Power facility to generate electricity, heat and steam; and associated engineering works; extension to existing access road and provision of offices; biogas generators, storage tanks, vehicle parking; and visitor/education centre		
08/00007/SCO	Recycling and composting facility with fully integrated composting, anaerobic digestion, dry recyclable recovery, paper recycling and combined heat and power plant; for the treatment of residual waste comprising both municipal and commercial & industrial wastes; extension to existing		

	access road and provision of offices; biogas generators, storage tanks, vehicle parking; and visitor/education centre.		
08/01760/MIN	Development of an integrated Waste Management Facility	Objections Raised	04.12.08
75/00803/P	Erection of prefabricated concrete/asbestos building to accommodate standby diesel alternator set	Granted	05.09.75
78/01025/P	Erection of two lean-to buildings to accommodate oil-fired warm air heating units	Granted	23.08.78
11/00860/ECC	Application to discharge conditions 53 and 54 relating to approved application 08/01760/MIN - Development of an integrated Waste Management Facility	Objections Raised	30.06.11
12/01025/MIN	Non-material amendment of planning permission ref: ESS/37/08/BTE (Development of an integrated Waste Management Facility) to allow: 1) amendment of the list of plans referred to under Condition 2 2) inclusion of a clarificatory informative 3) internal layout changes within each Hangar 4) turbine hall, electrical distribution and CHP facility layout 5) siting and layout changes to additional external plant and equipment	Withdrawn	24.08.12
12/01404/MIN	Non-material amendment of planning permission ref: ESS/37/08/BTE (PINS Ref: APP/Z1585/V/09/2104804	Deemed Permitted	25.10.12

	) (Development of an integrated Waste Management Facility) to allow amended wording of Condition 2 (application details)		
14/01096/MIN	<p>Consultation on Essex County Council application ESS/41/14/BTE - Extension of time of 2 years to the period for commencement of development (condition 1) of planning permission granted by the Secretary of State Ref. APP/Z1585/V/09/2104804 (ECC ref ESS/37/08/BTE), allowing the date of commencement to be extend from 2 March 2015 to 2 March 2017. The planning permission being for An Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant (CHP) utilising solid recovered fuel to produce</p>	Deemed Permitted	02.12.14

	<p>electricity, heat and steam; extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; visitor/education centre; extension to existing access road; provision of offices and vehicle parking; and associated engineering works and storage tanks in accordance with application number ESS/37/08/BTE dated 26 August 2008 (as amended).</p>		
14/00020/SCR	<p>Consultation on Essex County Council screening opinion request ESS/41/14/BTE - Extension of time of 2 years to the period for commencement of development (condition 1) of planning permission granted by the Secretary of State Ref. APP/Z1585/V/09/2104804 (ECC ref ESS/37/08/BTE), allowing the date of commencement to be extend from 2 March 2015 to 2 March 2017. The planning permission being for An Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals;</p>	Screening/ Scoping Opinion Adopted	17.10.14

	<p>Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant (CHP) utilising solid recovered fuel to produce electricity, heat and steam; extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; visitor/education centre; extension to existing access road; provision of offices and vehicle parking; and associated engineering works and storage tanks in accordance with application number ESS/37/08/BTE dated 26 August 2008 (as amended).</p>		
15/00013/ECC	<p>Consultation on Essex County Council application ESS/55/14/BTE - Removal of condition 28 restricting geographical source of solid recovered fuel and condition 30 restricting geographical source of waste paper and card attached to planning permission ESS/41/14/BTE to allow importation of Solid Recovered Fuel and waste paper and card without constraint as to the geographical source of the material. Planning</p>	Granted	05.02.15

	permission ESS/41/14/BTE being for an Integrated Management Facility		
15/01105/ECC	<p>Consultation on Essex County Council application ESS/34/15/BTE - Variation of condition 2 (application drawings) of planning permission ESS/55/14/BTE to allow amended layout of the Integrated Waste Management Facility. The Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant (CHP) utilising solid recovered fuel to produce electricity, heat and steam; extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; visitor/education centre; extension to existing access road; provision of</p>	Granted	26.02.16

	<p>offices and vehicle parking; and associated engineering works and storage tanks. And approval of details required by condition (the details taking account of the proposed amended drawings), the conditions sought to be discharged are as follows: 6 (access road, cross over points), 13 Signage, Telecommunications &amp; Lighting at Woodhouse Farm complex, 14 Stack design and finishes, 17 (management plan for the CHP), 18 (green roof), 20 (construction compounds, parking of vehicles), 22 (foul water management), 23 (surface water drainage and ground water management), 24, (groundwater monitoring), 37 (signs on access road at footpath crossings), 43 (lighting scheme during construction), 45 (phasing scheme for access road, retaining wall and mineral extraction), 50 (fencing temporary and permanent), 53 (ecological survey update), 54 (Habitat Management Plan update), 57 (landscaping bunding &amp; planting), 59 (trees, shrubs and hedgerows retention and protection), 60(tree</p>		
15/01508/ECC	<p>Consultation on Essex County Council application ESS/55/14/BTE/LA1 - Details relating to Clause 3.12.2 of the Legal Agreement dated 30 October 2009 requiring</p>	Granted	24.11.16

	Listed Building Consent application(s) for the Woodhouse Farm Complex		
16/00071/ECC	<p>Consultation on Essex County Council application ESS/34/15/BTE - Variation of condition 2 (application drawings) of planning permission ESS/55/14/BTE to allow amended layout of the Integrated Waste Management Facility. The Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant (CHP) utilising solid recovered fuel to produce electricity, heat and steam; extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; visitor/education centre; extension to existing access road; provision of</p>	Granted	26.02.16

	<p>offices and vehicle parking; and associated engineering works and storage tanks. And approval of details required by condition (the details taking account of the proposed amended drawings), the conditions sought to be discharged are as follows: 6 (access road, cross over points), 13 Signage, Telecommunications &amp; Lighting at Woodhouse Farm complex, 14 Stack design and finishes, 17 (management plan for the CHP), 18 (green roof), 20 (construction compounds, parking of vehicles), 22 (foul water management), 23 (surface water drainage and ground water management), 24, (groundwater monitoring), 37 (signs on access road at footpath crossings), 43 (lighting scheme during construction), 45 (phasing scheme for access road, retaining wall and mineral extraction), 50 (fencing temporary and permanent), 53 (ecological survey update), 54 (Habitat Management Plan update), 57 (landscaping bunding &amp; planting), 59 (trees, shrubs and hedgerows retention and protection), 60(tree</p>		
16/00088/ECC	<p>Consultation on Essex County Council application ESS/55/14/BTE/LA2 - Clause 3.15 of the legal agreement associated with planning permisison ESS/55/14/BTE requiring</p>		

	the developer demonstrate their intention to develop the IWMF following mineral extraction		
16/00839/ECC	Consultation on Essex County Council application ESS/19/16/BTE/SPO - REGULATION 13 REQUEST FOR SCOPING OPINION to establish a new sand and gravel quarry	Granted	24.11.16
16/01729/ECC	Consultation on Essex County Council application ESS/34/15/BTE - The Installation of abstraction point, pumping equipment and water main from the River Blackwater to the Integrated Waste Management Facility site (ECC Planning Permission Ref ESS/34/15/BTE) using an existing abstraction licence (Environment Agency ref AN/037/0031/001/R01)	Granted	23.12.16
17/00002/ECCDAC	Consultation on Essex County Council Discharge of Conditions no. 25 of application 15/00013/ECC	No Objections Raised	27.01.17
17/00536/ECC	Consultation on Essex County Council application ESS/24/17/BTE/SPO - Integrated Waste Management Facility - Proposed change of stack height from 85mAOD (35m above existing ground levels) to 105mAOD (55m above existing ground levels)	No Objections Raised	10.04.17
17/01422/ECC	Consultation on Essex County Council applicaiton no. ESS/36/17/BTE - Full planning application to increase stack (chimney) height from 85m Above Ordnance Datum to 108m	No Objections Raised	01.09.17

	AOD (35m above existing ground levels to 58m above existing ground levels) of the Integrated Waste Management Facility 1.		
17/01440/ECC	Consultation on Essex County Council applicaiton no. ESS/37/17/BTE - Continuation of Integrated Waste Management Facility1 permitted by ESS/34/15/BTE without compliance with conditions 2 (application details), 14 (stack [chimney] design and cladding), 17 (Combined Heat & Power Plant Management Plan) and 56 (maximum stack height) to amend details resulting from the increase in stack height.	Refused	20.05.19
18/00297/ECC	Consultation on Essex County Council application ESS/37/17/BTE - Continuation of Integrated Waste Management Facility1 permitted by ESS/34/15/BTE without compliance with conditions 2 (application details), 14 (stack [chimney] design and cladding), 17 (Combined Heat & Power Plant Management Plan) and 56 (maximum stack height) to amend details resulting from the increase in stack height.	Refused	20.05.19
18/00531/ECC	Consultation on Essex County Council application ESS/36/17/BTE - Full planning application to increase stack (chimney) height from 85m Above Ordnance Datum to 108m AOD (35m above existing	Refused	20.05.19

	ground levels to 58m above existing ground levels) of the Integrated Waste Management Facility 1.		
19/00829/ECC	Consultation on Essex County Council application ESS/36/17/BTE - Full planning application to increase stack (chimney) height from 85m Above Ordnance Datum to 108m AOD (35m above existing ground levels to 58m above existing ground levels) of the Integrated Waste Management Facility 1.		18.10.19
19/00845/ECC	Consultation on Essex County Council application ESS/37/17/BTE - Continuation of Integrated Waste Management Facility1 permitted by ESS/34/15/BTE without compliance with conditions 2 (application details), 14 (stack [chimney] design and cladding), 17 (Combined Heat & Power Plant Management Plan) and 56 (maximum stack height) to amend details resulting from the increase in stack height.		18.10.19
20/00001/ODC	Proposed variation of the Environmental Permit		29.04.20
21/02736/ECCDAC	Consultation on Essex County Council Discharge of Condition Application:- Details pursuant to condition 10 (Archeological recording) of ESS/34/15/BTE.		24.03.22
21/02759/ECCDAC	Consultation on Essex County Council Discharge of Condition Application:Details pursuant to Condition 66	Objections Raised	11.10.21

	(Plan of action for an alternative use or a scheme of rehabilitation) of ESS/34/15/BTE.		
21/02971/ECC	Non-Material Amendment to amend the wording of Condition 64 of planning permission ESS/34/15/BTE to allow reference to updated historic environment documentation.	No Objections Raised	01.10.21
21/03228/ECCDAC	Consultation on Essex County Council Discharge of Condition Application - Details pursuant to Conditions 64 (Historic Building Record) of ESS/34/15/BTE. ESS/34/15/BTE was for Variation of condition 2 (application drawings) of planning permission ESS/55/14/BTE	No Objections Raised	23.11.21
21/03734/ECCDAC	Consultation on Essex County Council Discharge of Condition Application - Details pursuant to condition 12 (Management works near Woodhouse Farm Moat) of ESS/34/15/BTE.	No Objections Raised	13.01.22
22/00079/ECC	Non-Material Amendment to amend the wording of Condition 45 and 57 of planning permission ESS/34/15/BTE to allow reference to updated details with respect to earthworks sequencing and planting details.	Deemed Permitted	14.01.22
22/00129/ECC	Consultation on Essex County Council application no. ESS/02/22/BTE- Continuation of development of Integrated Waste Management Facility without compliance with condition 68	No Objections Raised	07.02.22

	(Refurbishment of Woodhouse Farm Complex) of ESS/34/15/BTE to allow additional time to complete refurbishment works.		
22/00953/ECC	Consultation on Essex County Council application no. ESS/34/15/BTE/67/01- Variation of condition 2 application drawings of planning permission ESS/55/14/BTE to allow amended layout of the Integrated Waste Management Facility.		09.08.22
22/01186/ECC	Notification in accordance with condition 4 (Hours of use) of ESS/01/22/BTE to allow the Woodhouse Lane access to be used for an event on Thursday 12 May 2022 and Sunday 15 May 2022. ESS/01/22/BTE was for "Temporary use of Woodhouse Lane by non HGV vehicles to provide access for visitors and staff to the Rivenhall Integrated Waste Management Facility Information Hub and construction of temporary traffic management measures."	Deemed Permitted	04.05.22
22/01519/ECCDAC	Consultation on Essex County Council Discharge of Condition Application:- Details pursuant to condition 10 (Archeological recording) of ESS/34/15/BTE		30.06.22
22/01845/ECC	Notification in accordance with condition 55 (works in bird nesting season) of ESS/34/15/BTE regarding demolition works at airfield gas training building.	Deemed Permitted	

	ESS/34/15/BTE was for the following "Variation of condition 2 (application drawings) of planning permission ESS/55/14/BTE to allow amended layout of the Integrated Waste Management Facility		
22/01846/ECC	Notification in accordance with condition 55 (works in bird nesting season) of ESS/34/15/BTE regarding tree works at Woodhouse Farm. ESS/34/15/BTE was for the following "Variation of condition 2 (application drawings) of planning permission ESS/55/14/BTE to allow amended layout of the Integrated Waste Management Facility.	Deemed Permitted	11.07.22
22/02044/ECC	Consultation on Essex County Council application no. ESS/34/15/BTE/NMA3- Non-Material Amendment to amend the wording of Condition 8 of planning permission ESS/34/15/BTE to allow the delivery and removal of abnormal indivisible loads associated with the piling rigs in connection with the construction the IWMF		13.09.22
22/02739/ECC	Notification of planned abnormal loads on 24 October 2022, 1 November 2022 and 21 November 2022. Notification as required by condition 8 of ESS/34/15/BTE. ESS/34/15/BTE was for an Integrated Waste Management Facility.	Deemed Permitted	14.10.22

23/00389/ECC	Notification of planned abnormal load on 21 February 2023 arriving at the IWMF site. Notification as required by condition 8 of ESS/34/15/BTE. ESS/34/15/BTE was for an Integrated Waste Management Facility.	Deemed Permitted	
23/01235/ECC	Consultation on Essex County Council application no. ESS/34/35/BTE/NMA6- Non-Material Amendment to amend the wording of Condition 35 of planning permission ESS/34/15/BTE to allow out of hours working between May 2023 and December 2023.	No Objections Raised	14.06.23
23/01303/ECC	Continuation of development of the Integrated Waste Management Facility (IWMF) with deletion of condition 66, approved details thereunder and associated conditions (Plan of Action if development not taken forward within 5 years) of planning permission ESS/34/15/BTE. ESS/34/15/BTE was amended planning permission for "The Integrated Waste Management Facility comprising: Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials	Objections Raised	23.06.23

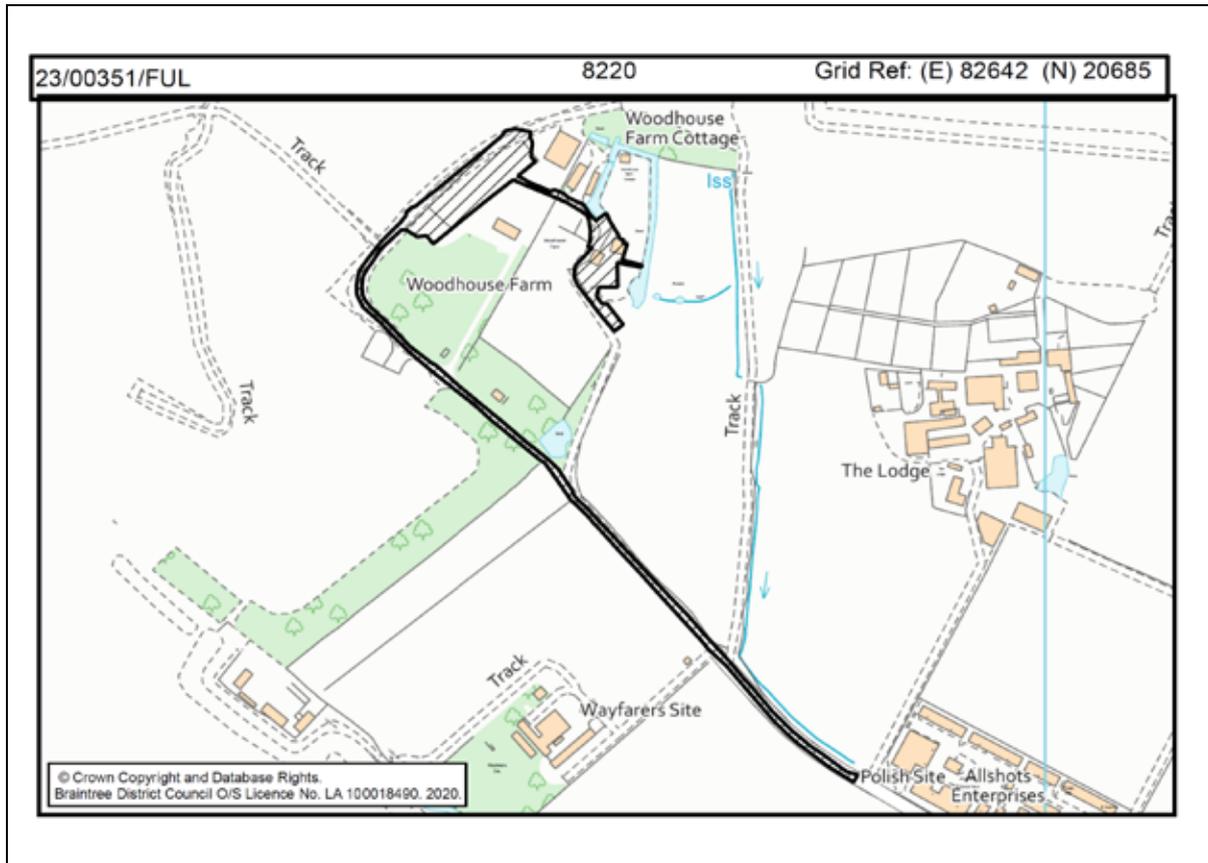
	e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant (CHP) utilising solid recovered fuel to produce electricity, heat and steam; extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; visitor/education centre; extension to existing access road; provision of offices and vehicle parking; and associated engineering works and storage tanks."		
23/01456/ECC	Non-Material Amendment to amend the wording of Condition 45, 57 and 59 of planning permission ESS/34/15/BTE to allow updated details with respect to soil nailing, planting details and earthworks sequencing.	Deemed Permitted	31.05.23
23/01554/ECC	Non-Material Amendment to amend the wording of Condition 35 of planning permission ESS/34/15/BTE to allow out of hours working between May 2023 and December 2023	Deemed Permitted	12.06.23
23/01566/ECC	Unable to locate original application received Continuation of development of the Integrated Waste		13.06.23

	Management Facility (IWMF) with deletion of condition 66		
23/01740/ECCDAC	Consultation on Essex County Council:- Details pursuant to condition 54 (Habitat Management Plan Annual Review 2022) of ESS/34/15/BTE. ESS/34/15/BTE is a variation planning permission for the Integrated Waste Management Facility.	Objections Raised	19.07.23
15/01191/LBC	Repair and refurbishment	Granted	26.09.17
21/00721/DAC	Application for approval of details as reserved by condition/s 4A, 4B, 5, 6 and 7 of approved application 15/01191/LBC	Part Grant, Part Refused	02.06.21
22/02462/LBC	Repair of existing roof structure, enclosure, chimneys, first floor ceiling, rainwater goods; and Installation of new bat access features.	Pending Decision	
22/02463/FUL	Installation of timber post and rail fence, including one pedestrian gate providing private access.	Pending Decision	
22/02464/FUL	Refurbishment, extension and fencing of existing agricultural steel barn and brick-built lean-to shed to create workshop and enclosed yard space that can be used by local community groups (Class D2).	Pending Decision	
22/02739/ECC	Notification of planned abnormal loads on 24 October 2022, 1 November 2022 and 21 November 2022. Notification as required by condition 8 of ESS/34/15/BTE. ESS/34/15/BTE was for an Integrated Waste	Deemed Permitted	14.10.22

	Management Facility.		
23/00351/FUL	Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats.	Pending Decision	
23/00352/LBC	Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats.	Pending Decision	

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 17th October 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	23/00351/FUL
<b>Description:</b>	Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats.
<b>Location:</b>	Woodhouse Farm Cottage, Woodhouse Lane, Kelvedon
<b>Applicant:</b>	Mr Gareth Jones, Indaver Rivenhall Limited, Woodhouse Farm, Woodhouse Lane, Kelvedon, Essex, CO5 9DF
<b>Agent:</b>	Mr Steven Smith, Honace Limited, 820 The Crescent, Colchester Business Park, Colchester, CO4 9YQ
<b>Date Valid:</b>	10th February 2023
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Conditions & Reasons and Informatives outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Approved Plans & Documents Conditions & Reasons and Informatives
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Fiona Hunter For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2521, or by e-mail: <a href="mailto:fiona.hunter@braintree.gov.uk">fiona.hunter@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	<p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
<b>Legal Implications:</b>	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications:</b>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</li> </ul>

	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 23/00351/FUL.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013-2033)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application seeks planning permission for the repair and refurbishment of the existing Woodhouse Farmhouse, Brewhouse and pump, and associated pigsties, to form a heritage exhibition in association with the wider Woodhouse Farm Complex. This has been submitted in conjunction with an application listed building consent for the works (Application Reference 23/00352/LBC).
- 1.2 The application forms one of a number of applications which considers development on the wider 'Woodhouse Farm Complex', located to the east of Silver End and to the north of Kelvedon.
- 1.3 The principle of the development is considered to be acceptable, which has been established through the requirements of the Essex County Council applications for the Indaver Waste Management Facility, which sought the provision of an education centre for the public and heritage museum.
- 1.4 The harms which have been identified are limited to the exposure of limited timber framing, which has been weighed against the public benefits of the proposal being the optimum viable use of the site, and the use of interpretation boards to justify the impacts on historic fabric.
- 1.5 Overall, taking these factors into account, the application is recommended for approval.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation, as the application is deemed to be 'significant' by the Planning Development Manager.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site forms part of a wider site, known as the 'Woodhouse Farm Complex'. This site is set within an area which has been subject to a number of applications to Essex County Council for the Indaver Waste Management Facility (IWMF) on the former Rivenhall airfield. This application forms one of a number of proposals which seek to satisfy a condition set out within the IWMF permissions to provide a visitor and education centre at Woodhouse Farm and associated buildings. This is set out within Condition 68 of ESS/34/15/BTE which states:

*'Within 6 years of the date of commencement of development as notified under condition 1, Woodhouse Farm and buildings shall be refurbished to a visitor and education centre.'*

The Section 106 agreement for associated with ESS/37/08/BTE further stipulates that:

*'Subject to obtaining all necessary consents to use reasonable endeavours to reinstate and refurbish the Woodhouse Farm Complex to include offices, an education centre for the public and an area set aside as a local heritage and airfield museum prior to the commencement of Beneficial Use of the Waste Management Facility'.*

5.2 The wider site is formed of a number of listed buildings and barns, which are in various states of repair. The site is accessed from Woodhouse Lane, which runs to the south of the site, along with an access which runs through the Waste Management Facility from the A120.

5.3 The application site is formed of a Grade II listed building known as Woodhouse Farmhouse, along with the Brewhouse and Pump, both of which are also Grade II listed. There are a number of ancillary outbuildings which are curtilage listed.

5.4 The existing buildings are in a state of disrepair, with windows boarded up and the brewhouse is currently protected from the elements by way of a large metal structure which has been constructed over what remains of the brewhouse. There is currently no roof to the brewhouse, but the structure can be appreciated for its previous form from its remains.

5.5 This application has been submitted alongside a number of other applications across the wider 'Woodhouse Farm Complex' as set out below:

23/00352/LBC - Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures, and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats;

22/02462/LBC - Repair of existing roof structure, enclosure, chimneys, first floor ceiling, rainwater goods. Installation of new bat access features;

22/02863/LBC - Consolidate, conserve and repair the remains of the walls and fabric to the Feed Barn, comprising the recording and removal of timber walls, concrete footings, timber posts and metal fence, C20 block wall and C20 concrete floor and the retention and minor repair of surviving brick plinth walls and farmyard brick wall;

23/02463/FUL - Installation of timber post and rail fence, including one pedestrian gate providing private access; and

22/02464/FUL - Refurbishment, extension and fencing of existing agricultural steel barn and brick-built lean-to shed to create workshop and enclosed yard space that can be used by local community groups (Class D2).

5.6 The above applications are also being reported to Planning Committee on 17th October 2023.

## 6. PROPOSAL

6.1 The proposal sees repairs to the existing listed structures in order for them to be appreciated as a heritage exhibit as part of the wider Woodhouse Farm Complex. Owing to the current state of the existing structures, a significant level of works are proposed as part of this application and the associated listed building consent application.

6.2 The proposal would see the addition of toilet facilities and services to the Farmhouse in order to function as a heritage exhibit, and the reinstatement of elements of the buildings as it would have been previously in order to

demonstrate the history of the building. The proposal would also see the use of the roof space as habitat for bats.

- 6.3 In order to facilitate the proposed use of the site, works are proposed both externally and internally which are subject to this application and the associated listed building consent as follows:

### Farmhouse

#### *External Works*

- § Removal of concrete areas and installation of self-binding gravel paths for access to Farmhouse.
- § Ramp and step access to Farmhouse.
- § Step access to accessible w/c.

#### *External Walls*

- § Removal of existing cement render and metal lath.
- § Repair and repointing of brickwork.
- § Insulation between timber studs, re-render with lime plaster.
- § Remove timber weatherboarding to north gable to allow for insulation and timber frame repair, reinstate weatherboarding.
- § Repair of timber fascias.
- § Installation of new rainwater goods.
- § Repair of brickwork to chimney and rebuild of main chimney.
- § Insertion of new rafters to roof and provision of installation and underfelt.
- § Reinstall red plain clay peg tiles with new tiles where necessary.
- § Provision of access to bats in roof pitches within the ridge tiles, and in the apex of the gables.

#### *Internal Works*

- § Creation of ramps internally to allow access.
- § Removal of concrete flooring and repair with timber/solid flooring as necessary.
- § Repair of lath and lime plaster and timber panelling.
- § Insertion of toilet facilities to ground and first floor.
- § Insertion of full services including power, heating and lighting.
- § Repair and reinstate timber doors and windows where feasible, otherwise upgraded doors and windows in timber and fire resistant doors.
- § New timbers to attic where necessary.

### Brewhouse/Yard/Pigsties

#### *External Works*

- § New self-binding gravel paths with brick pavements.
- § New surfacing to brewhouse yard and gated access to west of site.
- § Roof to be re-built with installation of new rafters.
- § Reinstall red plain clay peg tiles with new tiles where necessary.
- § Installation of new rainwater goods.

### *Internal Works*

- § Levelling of floors and insertion of limecrete subfloor in Brewhouse.
- § Existing floor in stable to be retained.
- § Repair and retention of lime plaster, daub, and timber boarding to internal and external walls.
- § Reinstatement of weatherboarding finishes.
- § Brickwork plinths and walls repaired and repointed.
- § Insertion of full services including power, heating, and lighting.
- § Chimney and oven to be repaired and rebuilt including copper tops.
- § Stable door to be replaced like for like, with slim double glazing.
- § Retention and repair of existing doors and windows.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 BDC Ecology

- 7.1.1 No objection, subject to conditions regarding accordance with the Ecological Appraisal Recommendations and Natural England licences.

### 7.2 ECC Highways

- 7.2.1 The impacts of the proposals are acceptable from a highway and transport perspective, subject to conditions regarding a construction traffic management plan, and the public right of way maintained free and unobstructed. The PROW team also provided comments stating that the proposal is acceptable subject to the footpath being maintained open at all times with no obstructions, and the existing surface material is to be retained.

### 7.3 ECC Historic Buildings Consultant

- 7.3.1 Overall supportive of the proposals which should ensure the conservation and continuing preservation of the heritage assets, whilst also allowing the public access to nationally important assets, however have concerns over the section of exposed timber on the listed farmhouse.

## 8. PARISH / TOWN COUNCIL

### 8.1 Kelvedon Parish Council

- 8.1.1 No comment and no objection

## 9. REPRESENTATIONS

- 9.1 No letters of representation have been received in connection with this application.

## 10. PRINCIPLE OF DEVELOPMENT

- 10.1 The application site is located within the countryside to the east of Silver End and north of Rivenhall. Policy LPP1 of the Adopted Local Plan sets out that development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.
- 10.2 The application has been submitted as part of a number of applications which seek to satisfy the requirements of permissions approved for the wider Waste Management Facility. These required the Applicant to *'reinstate and refurbish the Woodhouse Farm Complex to include offices, an education centre for the public and an area set aside as a local heritage and airfield museum'*. The application set out that *'Woodhouse Farm and buildings shall be refurbished to a visitor and education centre'*. This application seeks to repair and refurbish Woodhouse Farmhouse and the associated Brewhouse and Pump to be utilised as an educational centre to demonstrate the evolution of the site.
- 10.3 The NPPF sets out that in determining planning applications, the local planning authority should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
- 10.4 The NPPF further stipulates that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside. In this instance, the provision of an educational centre would be considered as a form of small scale rural tourism, although it is pertinent to note that this would be by appointment basis only.
- 10.5 Policy LPP47 of the Adopted Local Plan states that the Council will promote and encourage the contribution that heritage assets can make towards driving regeneration, economic development, tourism and leisure provision in the District, and would promote the sympathetic re-use of buildings.
- 10.6 Overall, it is considered that the principle of the proposal is acceptable, when considering the conservation and preservation of a number of listed buildings for a continued use which would allow for access to members of the public, subject to further assessment of the proposed works on design, amenity and highway grounds.

## 11. SITE ASSESSMENT

### 11.1 Design, Appearance and Impact upon the Character and Appearance of the Area

- 11.1.1 Policy LPP52 of the Adopted Local Plan require designs to reflect or enhance local distinctiveness in terms of scale, layout, height, and massing

of buildings, and be in harmony with the character and appearance of the surrounding area.

- 11.1.2 The proposals would see the reinstatement of a number of listed buildings, within an established farm complex. The existing buildings are in a state of disrepair and the repair of these buildings would create a positive impact on the character and appearance of the surrounding area, subject to their impact on the heritage assets subject to this application.

### 11.3 Heritage

- 11.3.1 Policy LPP57 of the Adopted Local Plan states that the Council will seek to preserve and enhance immediate settings of heritage assets by appropriate control over the development, design, and use of adjoining land.

- 11.3.2 The NPPF further stipulates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

- 11.3.3 The Historic Buildings Consultant has provided comments on the application and the associated listed building consent. They have surmised the following on the farmhouse works:

*'The proposed method of repair and conservation of the listed farmhouse is largely sensitive, and compliant with national and local planning policy. From the details provided, although the installation of services and internal alterations will result in a loss of fabric and elements which contribute to the overall significance of the building (such as the nineteenth century partitions), these alterations have been justified and will enable to the building to fulfil its new, optimum viable use. Sufficient detail has been provided regarding the method of repair and all internal and external finishes and as such I do not recommend any conditions regarding these elements. The proposed bat boxes should have no negative affect on the building's special interest, nor will the alterations to facilitate an accessible entrance and ramp to the building, which will be viewed as modern elements associated with its new use.'*

*Overall, the proposals should preserve the special interest of the building, however I do recommend the exposed timber to the gable on the south east elevation is removed from the proposals (item 13, page 10 of the planning statement), or additional interpretation is added to the proposal which explains why this section has not been re-rendered, in either a plaque or interpretation board. Whilst enabling visitors to the site to see the frame of the building, the lack of render in this area would be an incongruous, distracting element which could harm the way in which the building is appreciated, pulling unnecessary visual focus and detracting from the appreciation of the building as a whole, rather than a series of*

*structural and architectural elements. There is, nevertheless, some public benefit to this harmful element, which should be weighed against the small level of harm to the building's significance the window would cause. Should the exposed section of framing be found acceptable by the local authority, a condition regarding accompanying interpretation which explains this choice should be conditioned as part of any approval, as recommended above.'*

- 11.3.4 The Historic Buildings Consultant has recommended conditions regarding the scope of repairs, works to the chimney and method of removal of mortar/render.
- 11.3.5 When considering the exposed timber to the south east gable, it is recommended that a condition is imposed to require an interpretation board to demonstrate the works, as suggested by the Historic Buildings Consultant. It is considered that the works would align with the intention of the works to provide a visual evolution of the building as a farmhouse and as a heritage asset.
- 11.3.6 With regards to the brewhouse and pump, the Historic Buildings Consultant states that the proposed alterations would preserve its special interest and are well considered and sympathetic in nature. They have suggested the imposition of a condition as with the farmhouse regarding a test section of removal of the paint/tar and no machinery to be used in the removal of render/mortar.
- 11.3.7 The NPPF sets out 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 including, where appropriate, securing its optimum viable use. In this instance, it is considered that whilst there would be a loss of historic fabric in some elements and the small level of harm identified by the exposed section of framing, the proposals would secure an optimum viable use of the heritage assets and a public benefit from the reinstatement of the buildings which would outweigh the harm identified.

#### 11.4 Impact upon Neighbouring Residential Amenity

- 11.4.1 Policy LPP52 of the Adopted Local Plan states there shall be no unacceptable impact on the amenity of any nearby properties including on privacy, overshadowing, loss of light and overbearing impact.
- 11.4.2 The application site is located away from residential properties, within the established Woodhouse Farm Complex and the wider IWMF site. It is therefore considered that the proposals would not have a detrimental impact on neighbouring amenity.

#### 11.5 Ecology

- 11.5.1 Policy LPP66 of the Adopted Local Plan states that development proposals shall provide for the protection of biodiversity and the mitigation or

compensation of any adverse impacts. Additionally, enhancement of biodiversity should be included in all proposals, commensurate with the scale of development.

11.5.2 The proposals would see the use of the attic space for bat habitats, through the provision of access points within the gable and roof tiles. The Council's Ecological Consultant has provided comment on the application, raising no objection to the proposals subject to compliance with the submitted mitigation measures. It is therefore considered that the proposals are satisfactory from an ecological perspective and accord with the abovementioned policy.

## 11.6 Highway Considerations

11.6.1 Paragraph 111 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development on the road network would be severe.

11.6.2 The proposal sees access taken from Woodhouse Lane, utilising the Indaver car park to the north west of the site for visitors. Concerns have been raised regarding applications at this site and access arrangements, as the original Essex County Council applications were restricted to using the access road from the A120 which also serves Bradwell Quarry. During the lifetime of the application, discussions were undertaken with ECC Highways, who are satisfied that the proposals would see a small number of vehicular trips and would be satisfactory from a highway capacity and safety perspective.

11.6.3 The car park at the IWMF site would be used to accommodate any visitors, who would be by appointment only. This car park is of a substantial size and due to the arrangements, it is considered that this would be able to accommodate visitors to the site. The current plans for the car park, subject to ECC applications for the wider site, could accommodate 78 vehicular spaces. There is currently an application with ECC which seeks a non-material amendment (Application Reference ESS/34/15/BTE/NMA7) to the site to allow for a total of 85 car parking spaces plus 2 coach spaces.

## 12. CONCLUSION

12.1 Overall, the proposed provision of a heritage exhibition would be considered acceptable. The harms identified are limited to a small section of exposed timber framing, which can be mitigated by the use of interpretation boards to justify the exposure of this timber. Therefore, the proposals would secure an optimum viable use of the heritage assets and the public benefit of the reinstatement of the buildings would outweigh the harm identified.

12.2 Against this context, it is recommended that planning permission be granted for the proposed development.

13. RECOMMENDATION

- 13.1 It is RECOMMENDED that the following decision be made:  
Application GRANTED in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND  
INFORMATIVE(S)

Approved Plan(s) & Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Location Plan	0010	N/A
Block Plan	1025	N/A
Proposed Plans	1100	N/A
Section	1110	N/A
Section	1115	N/A
Door Details	1117	N/A
Door Details	1118	N/A
Other	1120	N/A
Window details	1125	N/A
Proposed Plans	1200	N/A
Section	1210	N/A
Section	1220	N/A
Window details	1225	N/A
Door Details	1230	N/A
Proposed Plans	1235	N/A
Other	A(00)-001 REV P6	N/A
Other	Z (90)-011 REV P5	N/A
Other	Z (90)-012 REV P4	N/A

Condition(s) & Reason(s)

Condition 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.

Condition 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.

Condition 3

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

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

#### Condition 4

All mitigation measures and/or works shall be carried out in accordance with the details contained the Bat Roost Characterisation Surveys (Green Environmental Consultants Ltd, October 2022) and the Bat Roost Characterisation Surveys Supplement - (Green Environmental Consultants Ltd, March 2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

#### Condition 5

Any works which will impact the breeding / resting place of bats, shall not in in any circumstances commence unless the local planning authority has been provided with either:

- a) A licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) A statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To conserve protected species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s17 Crime & Disorder Act 1998.

#### Condition 6

Prior to commencement of the development a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved Construction Traffic Management Plan.

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

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and has granted planning permission in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013-2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP61	Local Community Services and Facilities
LPP64	Protected Sites
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity

APPENDIX 3:

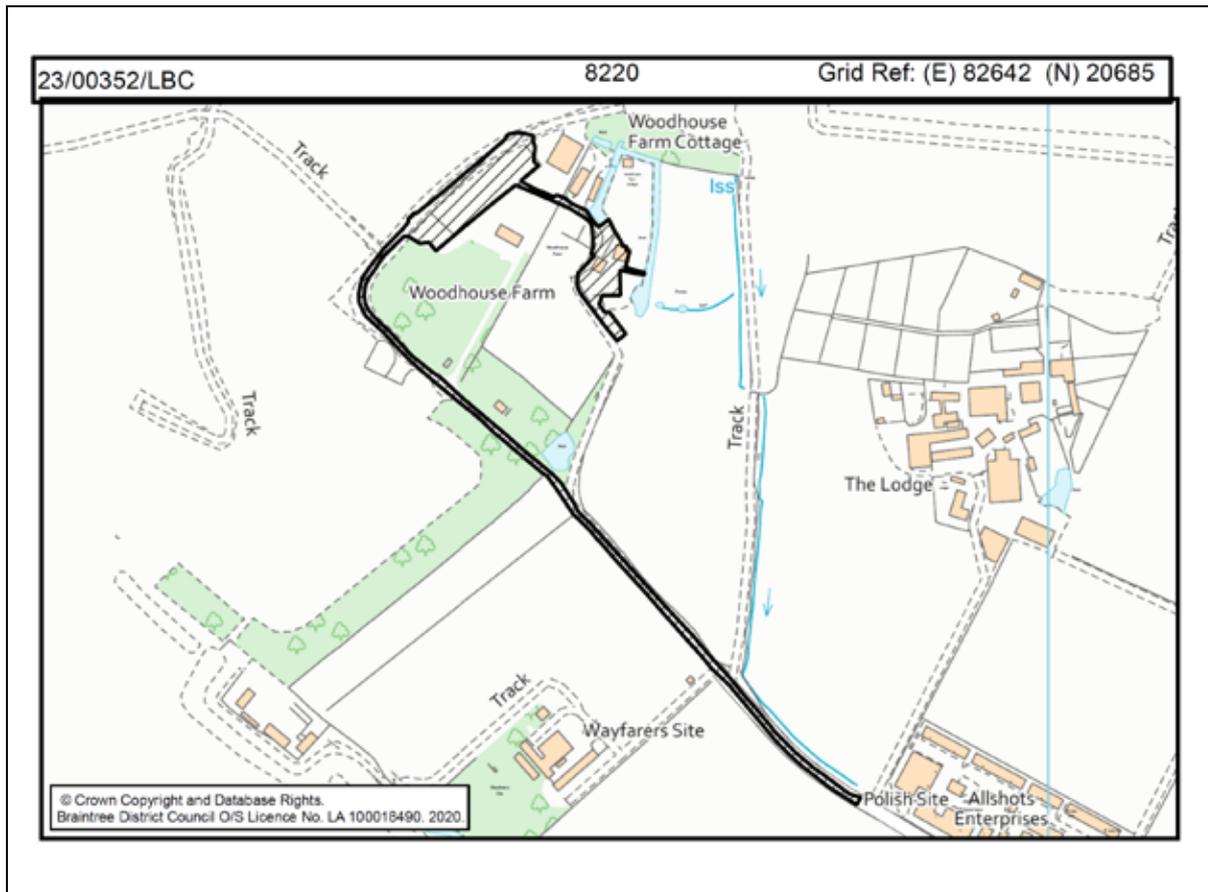
SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
15/01191/LBC	Repair and refurbishment	Granted	26.09.17
21/00721/DAC	Application for approval of details as reserved by condition/s 4A, 4B, 5, 6 and 7 of approved application 15/01191/LBC	Part Grant, Part Refused	02.06.21
22/02462/LBC	Repair of existing roof structure, enclosure, chimneys, first floor ceiling, rainwater goods; and Installation of new bat access features.	Pending Decision	
22/02463/FUL	Installation of timber post and rail fence, including one pedestrian gate providing private access.	Pending Decision	
22/02464/FUL	Refurbishment, extension and fencing of existing agricultural steel barn and brick-built lean-to shed to create workshop and enclosed yard space that can be used by local community groups (Class D2).	Pending Decision	
22/02739/ECC	Notification of planned abnormal loads on 24 October 2022, 1 November 2022 and 21 November 2022. Notification as required by condition 8 of ESS/34/15/BTE. ESS/34/15/BTE was for an Integrated Waste Management Facility.	Deemed Permitted	14.10.22
22/02863/LBC	Consolidate, conserve and repair the remains of the walls and fabric to the Feed Barn, comprising the recording and removal of timber walls, concrete footings, timber posts and metal fence, C20 block	Pending Decision	

	wall and C20 concrete floor and the retention and minor repair of surviving brick plinth walls and farmyard brick wall		
23/00352/LBC	Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats.	Pending Decision	

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 17th October 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	23/00352/LBC
<b>Description:</b>	Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats.
<b>Location:</b>	Woodhouse Farm Cottage, Woodhouse Lane, Kelvedon
<b>Applicant:</b>	Mr Gareth Jones, Indaver Rivenhall Limited, Woodhouse Farm, Woodhouse Lane, Kelvedon, Essex, CO5 9DF
<b>Agent:</b>	Mr Steven Smith, Honace Limited, 820 The Crescent, Colchester Business Park, Colchester, CO4 9YQ
<b>Date Valid:</b>	10th February 2023
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Conditions & Reasons and Informatives outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overtturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Approved Plans & Documents Conditions & Reasons and Informatives
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Fiona Hunter For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2521, or by e-mail: <a href="mailto:fiona.hunter@braintree.gov.uk">fiona.hunter@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.
<b>Legal Implications:</b>	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications:</b>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</li> </ul> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The</p>

	<p>Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 23/00352/LBC.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013-2033)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application seeks listed building consent for the repair and refurbishment of the existing Woodhouse Farmhouse, Brewhouse and pump, and associated pigsties, to form a heritage exhibition in association with the wider Woodhouse Farm Complex. This application has been submitted in conjunction with an application for planning permission for the works (Application Reference 23/00351/FUL).
- 1.2 The application forms one of a number of applications which considers development on the wider 'Woodhouse Farm Complex', located to the east of Silver End and to the north of Kelvedon.
- 1.3 The proposed use of the application site is considered to be its optimum viable use and would preserve the special interest of the identified heritage assets.
- 1.4 The harms which have been identified are limited to the exposure of limited timber framing, which has been weighed against the public benefits of the proposal being the optimum viable use of the site, and the use of interpretation boards to justify the impacts on historic fabric.
- 1.5 Overall, taking these factors into account, the application is recommended for approval.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

- 2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation, as the application is deemed to be 'significant' by the Planning Development Manager.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

- 5.1 The application site forms part of a wider site, known as the 'Woodhouse Farm Complex'. This site is set within an area which has been subject to a number of applications to Essex County Council for the Indaver Waste Management Facility (IWMF) on the former Rivenhall airfield. This application forms one of a number of proposals which seek to satisfy a condition set out within the IWMF permissions to provide a visitor and education centre at Woodhouse Farm and associated buildings. This is set out within Condition 68 of ESS/34/15/BTE which states:

*'Within 6 years of the date of commencement of development as notified under condition 1, Woodhouse Farm and buildings shall be refurbished to a visitor and education centre.'*

The Section 106 agreement for associated with ESS/37/08/BTE further stipulates that:

*'Subject to obtaining all necessary consents to use reasonable endeavours to reinstate and refurbish the Woodhouse Farm Complex to include offices, an education centre for the public and an area set aside as a local heritage and airfield museum prior to the commencement of Beneficial Use of the Waste Management Facility'.*

- 5.2 The wider site is formed of a number of listed buildings and barns, which are in various states of repair. The site is accessed from Woodhouse Lane, which runs to the south of the site, along with an access which runs through the Indaver Waste Management Facility from the A120.
- 5.3 The application site is formed of a Grade II listed building known as Woodhouse Farmhouse, along with the Brewhouse and Pump, both of which are also Grade II listed. There are a number of ancillary outbuildings which are curtilage listed.

5.4 The existing buildings are in a state of disrepair, with windows boarded up and the brewhouse is currently protected from the elements by way of a large metal structure which has been constructed over what remains of the brewhouse. There is currently no roof to the brewhouse, but the structure can be appreciated for its previous form from its remains.

5.5 This application has been submitted alongside a number of other applications across the wider 'Woodhouse Farm Complex' as set out below:

23/00351/FUL - Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats;

22/02462/LBC - Repair of existing roof structure, enclosure, chimneys, first floor ceiling, rainwater goods. Installation of new bat access features;

22/02863/LBC - Consolidate, conserve and repair the remains of the walls and fabric to the Feed Barn, comprising the recording and removal of timber walls, concrete footings, timber posts and metal fence, C20 block wall and C20 concrete floor and the retention and minor repair of surviving brick plinth walls and farmyard brick wall;

23/02463/FUL - Installation of timber post and rail fence, including one pedestrian gate providing private access; and

22/02464/FUL - Refurbishment, extension and fencing of existing agricultural steel barn and brick-built lean-to shed to create workshop and enclosed yard space that can be used by local community groups (Class D2).

5.6 The above applications are also being reported to Planning Committee on 17th October 2023.

## 6. PROPOSAL

6.1 This application seeks listed building consent for works in association with the provision of heritage exhibition across Woodhouse Farmhouse, the Brewhouse, the Pump and the associated pigsties.

6.2 The works proposed are outlined as follows:

### Farmhouse

#### *External Works*

- § Removal of concrete areas and installation of self-binding gravel paths for access to Farmhouse.
- § Ramp and step access to Farmhouse.
- § Step access to accessible w/c.

#### *External Walls*

- § Removal of existing cement render and metal lath.
- § Repair and repointing of brickwork.
- § Insulation between timber studs, re-render with lime plaster.
- § Remove timber weatherboarding to north gable to allow for insulation and timber frame repair, reinstate weatherboarding.
- § Repair of timber fascias.
- § Installation of new rainwater goods.
- § Repair of brickwork to chimney and rebuild of main chimney.
- § Insertion of new rafters to roof and provision of installation and underfelt.
- § Reinstall red plain clay peg tiles with new tiles where necessary.
- § Provision of access to bats in roof pitches within the ridge tiles, and in the apex of the gables.

#### *Internal*

- § Creation of ramps internally to allow access.
- § Removal of concrete flooring and repair with timber/solid flooring as necessary.
- § Repair of lath and lime plaster and timber panelling.
- § Insertion of toilet facilities to ground and first floor.
- § Insertion of full services including power, heating, and lighting.
- § Repair and reinstate timber doors and windows where feasible, otherwise upgraded doors and windows in timber and fire resistant doors.
- § New timbers to attic where necessary.

#### Brewhouse/Yard/Pigsties

##### *External Works*

- § New self-binding gravel paths with brick pavements.
- § New surfacing to brewhouse yard and gated access to west of site.
- § Roof to be re-built with installation of new rafters.
- § Reinstall red plain clay peg tiles with new tiles where necessary.
- § Installation of new rainwater goods.

##### *Internal Works*

- § Levelling of floors and insertion of limecrete subfloor in Brewhouse
- § Existing floor in stable to be retained.
- § Repair and retention of lime plaster, daub, and timber boarding to internal and external walls.
- § Reinstatement of weatherboarding finishes.
- § Brickwork plinths and walls repaired and repointed.
- § Insertion of full services including power, heating, and lighting.
- § Chimney and oven to be repaired and rebuilt including copper tops.

- § Stable door to be replaced like for like, with slim double glazing.
- § Retention and repair of existing doors and windows.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 ECC Historic Buildings Consultant

- 7.1.1 Overall supportive of the proposals which should ensure the conservation and continuing preservation of the heritage assets, whilst also allowing the public access to nationally important assets, however have concerns over the section of exposed timber on the listed farmhouse.

## 8. PARISH / TOWN COUNCIL

### 8.1 Kelvedon Parish Council

- 8.1.1 (In response to the associated FUL application) No comment and no objection.

## 9. REPRESENTATIONS

- 9.1 No letters of representation have been received in connection with this application.

## 10. ASSESSMENT

- 10.1 Policy LPP57 of the Adopted Local Plan states that the Council will seek to preserve and enhance immediate settings of heritage assets by appropriate control over the development, design, and use of adjoining land.

- 10.2 The NPPF further stipulates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

- 10.3 The Historic Buildings Consultant has provided comments on the application and the associated planning permission. They have surmised the following on the farmhouse works:

*'The proposed method of repair and conservation of the listed farmhouse is largely sensitive, and compliant with national and local planning policy. From the details provided, although the installation of services and internal alterations will result in a loss of fabric and elements which contribute to the overall significance of the building (such as the nineteenth century partitions), these alterations have been justified and will enable the building to fulfil its new, optimum viable use. Sufficient detail has been provided regarding the method of repair and all internal and external finishes and as such I do not recommend any conditions regarding these*

*elements. The proposed bat boxes should have no negative affect on the building's special interest, nor will the alterations to facilitate an accessible entrance and ramp to the building, which will be viewed as modern elements associated with its new use.*

*Overall, the proposals should preserve the special interest of the building, however I do recommend the exposed timber to the gable on the south east elevation is removed from the proposals (item 13, page 10 of the planning statement), or additional interpretation is added to the proposal which explains why this section has not been re-rendered, in either a plaque or interpretation board. Whilst enabling visitors to the site to see the frame of the building, the lack of render in this area would be an incongruous, distracting element which could harm the way in which the building is appreciated, pulling unnecessary visual focus and detracting from the appreciation of the building as a whole, rather than a series of structural and architectural elements. There is, nevertheless, some public benefit to this harmful element, which should be weighed against the small level of harm to the building's significance the window would cause. Should the exposed section of framing be found acceptable by the local authority, a condition regarding accompanying interpretation which explains this choice should be conditioned as part of any approval, as recommended above.'*

- 10.4 The Historic Buildings Consultant has recommended conditions regarding the scope of repairs, works to the chimney, and method of removal of mortar/render.
- 10.5 When considering the exposed timber to the south east gable, it is recommended that a condition is imposed to require an interpretation board to demonstrate the works, as suggested by the Historic Buildings Consultant. It is considered that the works would align with the intention of the works to provide a visual evolution of the building as a farmhouse and as a heritage asset.
- 10.6 With regards to the brewhouse and pump, the Historic Buildings Consultant states that the proposed alterations would preserve its special interest and are well considered and sympathetic in nature. They have suggested the imposition of a condition as with the farmhouse regarding a test section of removal of the paint/tar and no machinery to be used in the removal of render/mortar.
- 10.7 The NPPF sets out 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 including, where appropriate, securing its optimum viable use. In this instance, it is considered that whilst there would be a loss of historic fabric in some elements and the small level of harm identified by the exposed section of framing, the proposals would secure an optimum viable use of the heritage assets and a public benefit from the reinstatement of the buildings which would outweigh the harm identified.

11. CONCLUSION

- 11.1 From a heritage perspective, the proposed works have identified a small level of harm associated with the exposure of timbers. However, when considering this against the optimum viable use of the site and the potential for mitigation through the use of interpretation boards, the proposed works are considered acceptable. Therefore, the proposals would secure an optimum viable use of the heritage assets and the public benefit of the reinstatement of the buildings would outweigh the harm identified.
- 11.2 Against this context, it is recommended that listed building consent be granted for the proposed development.

12. RECOMMENDATION

- 12.1 It is RECOMMENDED that the following decision be made:  
Application GRANTED in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND  
INFORMATIVE(S)

Approved Plan(s) & Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Location Plan	0010	N/A
Block Plan	1025	N/A
Proposed Plans	1100	N/A
Section	1110	N/A
Section	1115	N/A
Door Details	1117	N/A
Door Details	1118	N/A
Other	1120	N/A
Window details	1125	N/A
Proposed Plans	1200	N/A
Section	1210	N/A
Section	1220	N/A
Window details	1225	N/A
Door Details	1230	N/A
Proposed Plans	1235	N/A
Other	A(00)-001 REV P6	N/A
Other	Z (90)-011 REV P5	N/A
Other	Z (90)-012 REV P4	N/A

Condition(s) & Reason(s)

Condition 1

The works hereby permitted shall commence 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.

Condition 2

The works hereby permitted shall only be implemented in accordance with the approved plan(s) / document(s) listed above.

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

Condition 3

The internal and external materials and finishes shall be as indicated on the approved plan(s) and permanently retained as such.

Reason: To ensure the use of appropriate materials having regard to the listed building.

#### Condition 4

Prior to the commencement of external works to the chimney, a test section of paint shall be removed using the Applicant's preferred method. No more than 1m<sup>2</sup> shall be removed until the works have been inspected on site and approved in writing by the Local Planning Authority.

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

#### Condition 5

Prior to the commencement of works to the weatherboarding in the Brewhouse, a test section of paint shall be removed using the Applicant's preferred method. No more than 1m<sup>2</sup> shall be removed until the works have been inspected on site and approved in writing by the Local Planning Authority.

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

#### Condition 6

No machine tools shall be used for the removal of any external mortar or render.

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

#### Condition 7

Prior to first use of the application site, details of an interpretation board to explain the exposed timber framing on the Farmhouse shall be submitted to and approved in writing by the Local Planning Authority. The approved interpretation board shall be installed prior to the first use of the application site and retained thereafter to the satisfaction of the Local Planning Authority.

Reason: To ensure the use of appropriate materials having regard to the listed building.

#### Informative(s)

##### Informative 1

Should any additional alterations be required beyond the scope of the planning statement, the local authority notified and listed building consent must be applied for if deemed appropriate.

APPENDIX 2:

POLICY CONSIDERATIONS

National Planning Guidance

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

Braintree District Local Plan 2013-2033

LPP57      Heritage Assets and their Settings

APPENDIX 3:

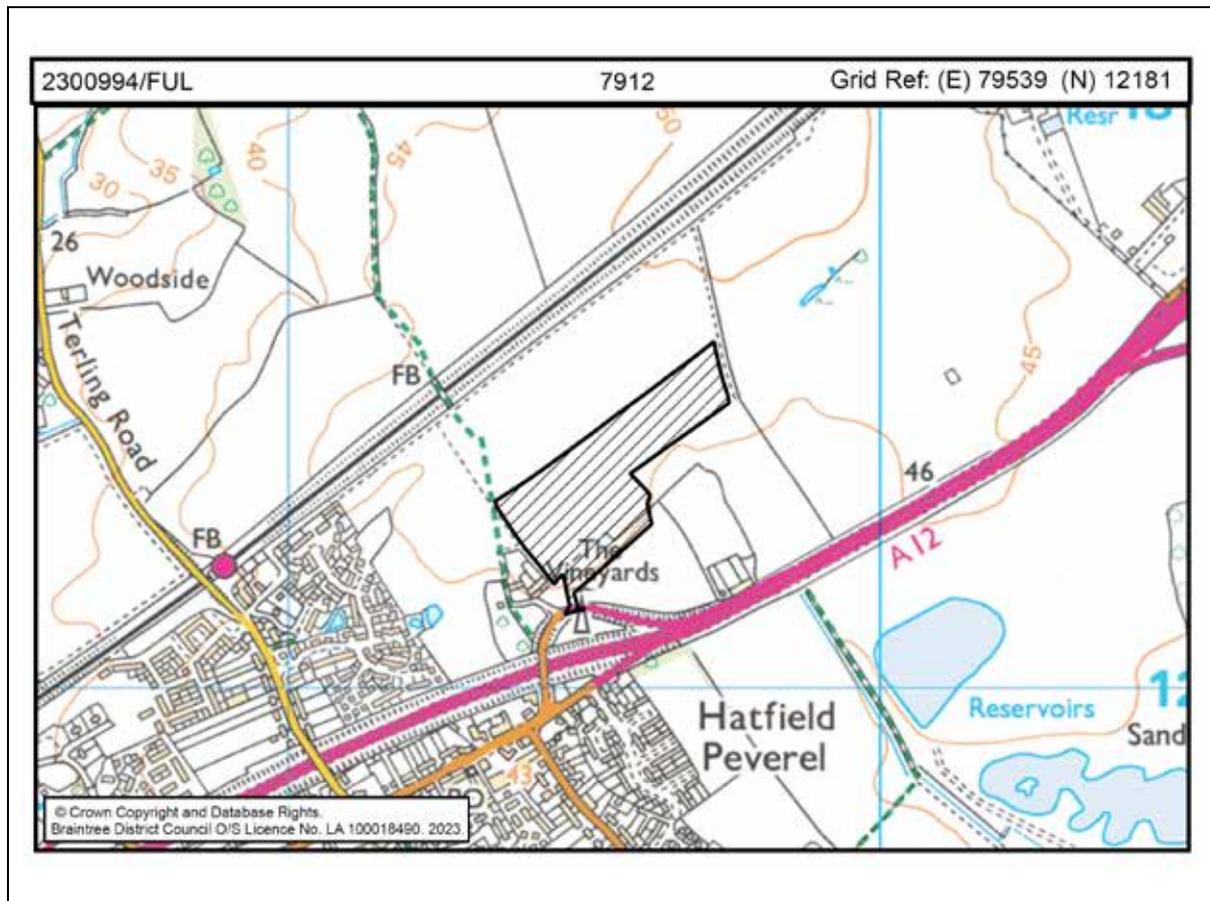
SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
15/01191/LBC	Repair and refurbishment	Granted	26.09.17
21/00721/DAC	Application for approval of details as reserved by condition/s 4A, 4B, 5, 6 and 7 of approved application 15/01191/LBC	Part Grant, Part Refused	02.06.21
22/02462/LBC	Repair of existing roof structure, enclosure, chimneys, first floor ceiling, rainwater goods; and Installation of new bat access features.	Pending Decision	
22/02463/FUL	Installation of timber post and rail fence, including one pedestrian gate providing private access.	Pending Decision	
22/02464/FUL	Refurbishment, extension and fencing of existing agricultural steel barn and brick-built lean-to shed to create workshop and enclosed yard space that can be used by local community groups (Class D2).	Pending Decision	
22/02739/ECC	Notification of planned abnormal loads on 24 October 2022, 1 November 2022 and 21 November 2022. Notification as required by condition 8 of ESS/34/15/BTE. ESS/34/15/BTE was for an Integrated Waste Management Facility.	Deemed Permitted	14.10.22
22/02863/LBC	Consolidate, conserve and repair the remains of the walls and fabric to the Feed Barn, comprising the recording and removal of timber walls, concrete footings, timber posts and metal fence, C20 block	Pending Decision	

	wall and C20 concrete floor and the retention and minor repair of surviving brick plinth walls and farmyard brick wall		
23/00351/FUL	Repair and conservation of historic fabric, including brickwork plinths, chimneys, ovens and walling, timber framing and roof structure, internal and external windows and doors, internal and external finishes, fixtures and fittings. Provision of accessible WCs, baby changing facilities, level access, fire protection and means of escape, and integrating modern services (water, lighting, power, data, etc.) and insulation. Securing of roof space for use by bats.	Pending Decision	

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 17th October 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
Application No:	23/00994/FUL
Description:	Creation and use of a temporary construction compound including; access onto the A12, car park, storage yard, welfare and office facilities and associated landscaping to support the enabling works for the A12 Chelmsford to A120 Widening Scheme Development Consent Order on land to the north of the A12 Junction 20b at Hatfield Peverel.
Location:	Land North East Of The Vineyards, Hatfield Peverel
Applicant:	Mr Kampanidila Kaluba, National Highways, Woodlands, Bedford, MK41 6FS
Agent:	Mrs Sophie Douglas, Jacobs, 1 City Walk, Leeds, LS11 9DX
Date Valid:	13th April 2023
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the completion of a Section 106 Agreement to cover the Heads of Terms outlined within the Recommendation section of this Committee Report, and subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Kathryn Oelman For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2524, or by e-mail: <a href="mailto:kathryn.oelman@braintree.gov.uk">kathryn.oelman@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	<p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>As outlined above, it is recommended that the decision is subject to a Section 106 Agreement which seeks to mitigate the impact(s) arising from the proposed development. Any financial implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
<b>Legal Implications:</b>	<p>Any legal implications arising out of a Section 106 Agreement will be set out in more detail within the body of this Committee Report.</p> <p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications:</b>	Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:

	<p>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</p> <p>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</p> <p>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p> <p>The Equality Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <p>Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council’s Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 23/00994/FUL.</p> <p>Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013-2033)</li> <li>§ Essex Minerals Local Plan 2014</li> <li>§ National Policy Statement for National Networks 2014</li> <li>§ Hatfield Peverel Neighbourhood Plan 201</li> <li>§ Essex Design Guide SPD 200</li> <li>§ Essex Parking Standards SPD 2009</li> </ul>

§ External Artificial Lighting SPD 2009

The National Planning Policy Framework can be viewed on the GOV.UK website: [www.gov.uk/](http://www.gov.uk/).

The other abovementioned policy documents can be viewed on the Council's website: [www.braintree.gov.uk](http://www.braintree.gov.uk).

## 1. EXECUTIVE SUMMARY

- 1.1 The site comprises 6.3 hectares of agricultural land north of the A12 slip road and adjacent a residential cul-de-sac called The Vineyards. A Public Right of Way (PROW) passes to the west outside the site, and the Great Eastern Main Line is located a distance away to the north.
- 1.2 The application is submitted by National Highways for the creation and use of a temporary construction compound to support enabling works for the A12 Chelmsford to A120 Widening Scheme. The wider Scheme is the subject of a Development Consent Order (DCO) currently being considered separately by the Planning Inspectorate (Reference TR010060).
- 1.3 The compound would be fenced and includes provision of a main office complex, storage yard, access roads, car parking areas and earth bunds. An access would be formed onto the existing A12 slip road supported by a construction and operational traffic management strategy.
- 1.4 A section of existing hedgerow (8.1m – HID 9275) and a small group of trees (G88) lying within the site would need to be removed to make way for the development but elsewhere hedgerows and trees would be retained and suitably protected during the works.
- 1.5 The application has attracted no representations from neighbours and there are no objections from statutory consultees. Hatfield Peverel Parish Council make a number of comments to which Officers have provided response in the report.
- 1.6 The provision of an advanced works compound would be advantageous for delivery of the wider DCO project, allowing construction and preparatory works to be front-loaded and facilitating commencement of the DCO works in a timely manner. The social and economic benefits of the scheme are judged to be significant.
- 1.7 Whilst there would be some temporary disruptive effects upon traffic, landscape, and visual impact, as well as impacts upon protected species, these would be temporary and capable of being mitigated or minimised in the short term and would not be harmful in the long term. As such, the application is recommended for approval with controlling conditions as listed, including time limits and restrictions for use as well as, where applicable, a reinstatement and enhancement scheme to ensure biodiversity net gain is delivered in the long term overall.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation, as the application is deemed to be 'significant' by the Planning Development Manager.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The site comprises a portion of agricultural land 6.3 hectares in area located approximately 230m to the east of the village of Hatfield Peverel.

5.2 To the west of the site lies properties on The Vineyards, a small cul-de-sac of seven dwellings accessed from a road which passes over the A12 Wellington Overbridge and goes on to become the A12 slip road. The closest of these dwellings is Rock Cottage which is situated approximately 10m from the site boundary.

5.3 The residential curtilage of a detached dwelling, Witham Field Farm, lies immediately to south of the site. The dwelling itself was located 230m from the site prior to being demolished recently. Consent has been granted (Application Reference 13/00641/FUL) for a replacement dwelling on the footprint of the original dwelling and this permission remains extant, therefore is capable of implementation.

5.4 A public footpath (PROW 90\_2) runs between the two furthest properties (Waycott and Highlands Cottage) from The Vineyards connecting the A12 to the crossing over the Great Eastern Main Line in the north; in doing so the footpath passes close to, but not within, the north-west corner of the site.

5.5 The site is located in Flood Zone 1 and is comprised of a mixture of Grade 2, 3 and 3a agricultural land. An overhead electricity cable runs across the site.

5.6 In general the site boundaries are arbitrary and do not therefore follow existing field boundaries. A 15m exclusion zone of agricultural land would be provided between the site and an existing hedgerow (Hedgerow Ref. HID 263) on adjacent land which contains a potential veteran Oak tree (T215) in the east, as well as to another existing hedgerow in the south (Hedgerow Ref. HID 8263) also located on adjacent land.

5.7 To the south an existing access utilises a gap in an existing species rich roadside hedgerow (Ref. HID 8275) into an area of dense scrub beyond. A section of hedgerow (8.1m – HID 9275) and a small group of trees (G88) would however need to be removed as they lie within the site and would be subsumed by the development proposed.

## 6. PROPOSAL

6.1 Application is made on behalf of National Highways for the creation and use of a temporary construction compound to be used to support enabling works for the A12 Chelmsford to A120 Widening Scheme. The wider Scheme is the subject of a Development Consent Order currently being considered separately by the Planning Inspectorate (Reference TR010060).

6.2 The application proposes a number of components which are described below.

6.3 In the north-west of the site, a Main Office Complex is proposed which would comprise a block of five connected blocks made up of prefabricated units individually measuring 10.8 m by 3m. In total the complex would occupy an area 60m x 43m. Each unit would be 3.3m high and would have solar panels on the roof, taking the overall height to 4.3m.

6.4 The Main Office Complex would house a main reception area, desks, meeting rooms, communal/seating areas including a kitchen area, toilet facilities and changing facilities for staff/boot room. The complex would be used by staff and contractors for conventional office use as well as to plan and develop systems for workplace safety. It would provide a base for the archaeological investigations required and monitoring/maintenance of the ecological sites occurring at locations along the A12 DCO area.

6.5 There would be a Welfare Block located to the east of the Main Office Complex which would be comprised of the same units occupying an area approximately 12m by 27m. This would contain a changing/drying area, shower and toilet facilities, lockers for storage of PPE, kitchen area and canteen seating and an area for storage of handy tools.

6.6 A Storage Office is proposed in the centre of the site along the northern boundary. It would house all the consumables that the Junction 20b compound would use and house an office/desk space for the Buyers and Logistics Manager.

6.7 Located in the south-west of the site, a main car parking area would be proposed occupying approximately 1ha in area. The area has been designed to serve the wider DCO's traffic and can provide a total of 500 parking spaces for cars and large vans, of which 4 would be for disabled users and 119 for electric vehicles. The Applicant states however that only 100 spaces of this car park would be utilised for the advanced works. Cycle storage would be provided for ten bikes in a sheltered area.

- 6.8 The Waiting Room Area within the car park would only be used once the DCO is operational and to coordinate the recovery of broken down or damaged vehicles with their associated owners and return them to the 'recovery spaces'. The room would also be used to monitor the CCTV footage collected from cameras mounted on the lighting columns or the side structures of the site. The waiting room and CCTV, as well as the Security Hut all located close to each other, would not be in use under this permission therefore precise details of the CCTV camera numbers and locations are not required at this stage as the use of this development would only take place once the DCO is commenced.
- 6.9 In the east of the site, accessed via its own haul road, would be a Storage Yard. The Yard occupies an area of approximately 2.35ha and would be surfaced with a compacted Type 1 granular material. There would be a designated fuel storage area within it contained by low level bunding. A refuse compound for refuse storage and collection, including recycling area, would also be present.
- 6.10 There would be a drainage pond located centrally within the Storage Yard. The Yard would be used for storing equipment and materials for the advanced works, such as plant and excavation equipment when it is not being stored on the ecological mitigation areas. It may include storage of materials, such as pipes and cabling, associated with the laying of utilities off site. Storage of items in this area would however be flexible and is not proposed to be controlled provided they are in association with the use applied for.
- 6.11 The site would be served by a new access formed off the A12 slip road. An internal roundabout is proposed with a spur heading north which would not be in use as part of the permission but is necessary for the wider development proposed under the DCO.
- 6.12 A 2.4m high metal palisade fence is proposed around the car park and office buildings with a main gate whereby access could ultimately be controlled via a key card system. A chain link fence, 2.15m in height, is proposed to contain the Storage Yard. Low level bunds, a maximum 1m high, are proposed to the main access and haul road.
- 6.13 There would be two earth bunds created on the perimeters of the site which would be between 2m and 3m high and graded typically at a 30-degree slope: Bund A in the west adjacent The Vineyards and a Bund B in the south adjacent the internal access road (as shown on the Noise and Bund Details Plan). The purpose of the bunds is to store and conserve topsoil from the site as well as shield properties at The Vineyards from noise and other nuisances. The bunds are proposed to be seeded with grass and would be retained for the duration if the DCO is granted.
- 6.14 If the DCO is granted then the application site would be subsumed into a much larger area of land with permission to be used as an operative

compound in association with the A12 widening project and the temporary permission applied for here would effectively be superseded. If the DCO is not granted, then the site would be required to be reinstated to its former condition according to an agreed timetable.

- 6.15 It is estimated that the temporary compound would be required for 26 weeks and commence use in 2023. The application would allow preparatory works to occur that would ultimately shorten the timescale for overall delivery of the wider works that are the subject of the DCO (if granted).
- 6.16 The application is accompanied by the following plans and documentation:
- Application Form.
  - Planning, Design and Access Statement (including Heritage Statement; Sustainability Statement; Refuse Strategy; Lighting Strategy; and Infrastructure and Utilities Statement).
  - Non-Statutory Environmental Appraisal Report (containing information on Landscape and Visual Impact; Biodiversity Surveys, Impact Assessment Reports and Biodiversity Checklist; Noise, Vibration and Dust Assessment; Population and Human Health; Cumulative Effects).
  - Tree Survey, Arboricultural Impact Assessment & Arboricultural Method Statement Report.
  - Badger Activity Report.
  - Series 3000 Landscap and Ecology Specificaiton.
  - Skylark Impact Assessment Report.
  - Land Quality & Phase 1 Contaminated Land Survey Report.
  - Flood Risk Assessment.
  - Drainage Strategy.
  - Transport Statement.
  - Construction Dust Risk Assessment.
  - Construction Operational Traffic Management Plan.
  - Compound Environmental Management Plan.
  - Site Location Plan C1514-05-D007-P03.
  - Existing Block Plan C1514-05-D008-P03.
  - Palisade Fence and Gate Details C1514-05-D010-P03.
  - Swept Path Analysis C1514-05-D013-P03.
  - Noise Bund Details C1514-05-D014-P03.
  - General Arrangement C1514-05-D015-P06.
  - Temporary Drainage During Construction Works C1514-05-D016-P02.
  - Fencing Plan C1514-05-D017-P03.
  - Construction Compound Section, Main office Elevations and Access Elevations C1514-05-D0018-P03.
  - Chain Link Fence Plan C1514-05-D019-P02.
  - Indicative Roof Plans C1514-05-D020-P02.
  - Drainage Details C1514-05-D021-P02.
  - Infrastructure and Utilities Plan C1514-05-D022-P02.
  - Site Access Signs C1514-05-D023 Rev 01.

- Enhancement and Reinstatement Plan HE551497-JAC-ELS-5\_S1E-DR-L-0003 P02.
  - Vegetation Retention, Removal & Tree Protection Plan HE551497-JAC-EAR-5\_SCHME-DR-L-0102 P02.
  - Vegetation Losses for Proposed Visibility Splay Plan HE551497-EAR-5\_SCHEME-DR-LE-0103 P02.
- 6.17 The application has been screened under the Town & Country Planning (Environmental Impact Assessment) Regulations 2007 (as amended) and the Local Planning Authority (LPA) has concluded that the proposal would not have a significant impact of more than local importance upon the environment and therefore did not need to be accompanied by an Environmental Statement (see Application Reference 22/03340/SCR).

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Anglian Water

- 7.1.1 Confirm they have no comments as there is no proposed connection to Anglian Water sewers.

### 7.2 Cadent Gas

- 7.2.1 Note that the proposal is within the vicinity of their medium and low-pressure assets. Raise no objections to the proposal subject to an informative.

### 7.3 Environment Agency

- 7.3.1 No comments received (deadline expired).

### 7.4 Essex Fire & Rescue

- 7.4.1 Do not raise objection. Their standard response includes comment that fire service access for the development appears sufficient provided that access routes and hard standings are capable of sustaining a minimum carrying capacity of 18 tonnes and that more detailed fire access will be considered at the building regulations stage. They note that additional water supplies may be required for firefighting for this development, and recommend the developer contact the Water Section at Service Headquarters on the number provided.

### 7.5 Essex Police (Designing Out Crime Officer)

- 7.5.1 No comments received (deadline expired).

### 7.6 Essex Wildlife Trust

- 7.6.1 No comments received (deadline expired).

7.7 Health & Safety Executive

7.7.1 The HSE self-assessment tool confirmed that the site did not lie within the consultation distance of any major hazard site or major accident hazard pipeline, therefore HSE did not need to be consulted on development on this site.

7.8 Historic England

7.8.1 Confirm they do not need to be consulted.

7.9 National Grid

7.9.1 No comments received (deadline expired).

7.10 Network Rail

7.10.1 No comments received (deadline expired).

7.11 Maldon District Council

7.11.1 Confirm they have no comments.

7.12 Ramblers Association

7.12.1 No comments received (deadline expired).

7.13 UK Power Networks

7.13.1 No comments received (deadline expired).

7.14 BDC Ecology

7.14.1 No objection. Confirm that sufficient ecological information is available for determination, however, recommend that further mitigation measures are secured in relation to Skylark. They support the proposed planting specification and schedule provided and consider it provides adequate compensation measures for the loss of native hedgerow.

7.15 BDC Economic Development

7.15.1 No comments received (deadline expired).

7.16 BDC Environmental Health

7.16.1 No objection. They have since accepted clarification provided regarding the height of the bund. They have also since commented that the proposed standard working hours are acceptable and that the dates of all night-time working must be notified to BDC along with contact details of contractors provided. No generators should run overnight and that water supplies for

any towable dust suppression units (used in the event the installed water supply is unavailable) must have adequate capacity to perform dust suppression function. In general, dust management control shall be in accordance with the Dust Risk Assessment Report.

7.17 BDC Landscape

7.17.1 Awaiting comments, which will be reported to the Committee once received.

7.18 ECC Archaeology

7.18.1 Do not object. Comment that the site has been subject to trial trenching as part of the wider DCO and that no remains were revealed, therefore no further work is required.

7.19 ECC Highway Authority

7.19.1 No objection, commenting that there are no concerns from a highway and transportation perspective provided that the Construction and Operational Management Plan is adhered to and that the access is provided prior to any other development commencing.

7.20 ECC Historic Buildings Consultant

7.20.1 No objection and comment that, due to the temporary nature of the proposal, there are no built heritage concerns regarding the scheme.

7.21 ECC Minerals & Waste

7.21.1 Raise no objections. They confirm the land lies within a Mineral Safeguarding Area, therefore the application is subject to Policy S8 of the Essex Minerals Local Plan 2014. Whilst the land is technically over the 5ha threshold referred to in the local resource safeguarding provisions, by the time a suitable stand-off distance is applied the site falls below this threshold. On this basis, a Minerals Resource Assessment is not required.

7.22 ECC SuDS

7.22.1 Requested additional information, and following submission of this, confirmed they have no objection and require no conditions.

8.1 PARISH / TOWN COUNCIL

8.1.1 Hatfield Peverel Parish/Town Council

8.1.2 "Further to the Planning Members Forum on 25 April, the Parish Council wishes to emphasise three specific issues in respect of the planning application for the A12 widening project construction compound off The Vineyards, Hatfield Peverel.

1. It is noted that, during the construction of the entrance to the site, there will be overnight road closures on the A12 northbound entry slip road for a period of approximately two weeks. Such overnight closures will result in traffic from Maldon via Maldon Road/B1018 having to turn left at the Duke of Wellington junction, then travelling through the village via The Street and on to Boreham Interchange, before joining the A12 to head north. To avoid increasing overnight noise levels in the village and impacting on the quality of life for local residents, it is essential that a fully signposted diversionary route is provided, with signage as far back as the A414/B1018 junction in Maldon. Signage will also be required to prevent vehicles turning left when exiting Waltham Road in Boreham in order to access the northbound A12 via J20B.

2. As a pre-condition to any planning consent, it is imperative that the surface of the Wellington Bridge be repaired and re-laid in order to make it fit for purpose - ie to cater for the volume of heavy vehicles anticipated to be using the compound both during the construction period and the operational phase. Currently the surface is inadequate even for regular traffic. It is acknowledged that the bridge will eventually be replaced. It is also recognised that such a condition requires ECC, BDC and National Highways to work together on a solution but ignoring this issue as part of any planning consent is to ignore the inherent dangers to motorists and pedestrians that will arise if no action is taken to provide an appropriate surface.

3. The Parish Council remains concerned for the residents of The Vineyards and the potential impact on their quality of life during the construction of the compound and during the operational phase. It is essential that full and proper mitigation measures are in place in relation to air and noise pollution and control of dust. There is also the issue of access to The Vineyards by emergency vehicles during the soft closures mentioned in item 1 above, which must be provided for.

- 8.1.3 The Parish Council would be grateful if you would please ensure that these points are given full weight and consideration when determining the planning application."

## 9. REPRESENTATIONS

- 9.1 No representations have been received in connection with this application.

## 10. PRINCIPLE OF DEVELOPMENT

- 10.1 The National Policy Statement (NPS) for National Networks (2014), Paragraph 1.4 states that the NPS may be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 and any successor legislation.

- 10.2 Paragraph 2.2 of the NPS states that there is a critical need to improve the national networks to address road congestion and support economic growth. Paragraph 2.10 states that, at a strategic level, there is a compelling need for development of national networks and the Examining Authority should therefore start their assessment of applications for infrastructure covered by the NPS on that basis.
- 10.3 Paragraph 3.3 of the NPS explains that, in delivering new schemes, the Government expects Applicants to avoid and mitigate environmental and social impacts in line with the principals set out in the NPPF and the Government's Planning Guidance.
- 10.4 Paragraph 3.4 acknowledges that in spite of delivery in an environmentally sensitive way some adverse local effects of development may remain. Paragraph 5.83 expects that, whilst some impacts upon amenity for local communities are likely to be avoidable, the impacts of dust, odour, artificial light, and smoke should be kept to a minimum and should be at least at a level that is acceptable.
- 10.5 Section 70(2) of the Town and County Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended), require applications for planning permission to be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 10.6 Paragraph 11 of the NPPF states that, in line with the presumption in favour of sustainable development, planning proposals which accord with an up-to-date Development Plan should be approved without delay. Paragraph 8 explains that achieving sustainable development means that planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways: economic, social, and environmental.
- 10.7 Paragraph 4.151 of the Adopted Local Plan recounts how the A12 widening project is expected to increase the overall capacity and upgrade junctions to make the network safer and smooth traffic flow. It is a stated ambition of the plan that the District Council work with National Highways to ensure the scheme is carried out. Whilst the junction works themselves are the subject of a separate Development Consent Order, the works proposed under this planning application are required if the DCO is to be implemented in an optimum timeframe.
- 10.8 Policy SP6 of the Adopted Local Plan requires the LPA to work with government departments and other partners to deliver improved access and capacity of junctions on the A12. The proposal is therefore acceptable in principle, and the economic and social benefits could be significant. However, to satisfy the wider planning balance, the scheme should avoid contradiction with other relevant policies in the plan.

## 11. SITE ASSESSMENT

### 11.1 General Context including Development Consent Order (DCO)

- 11.1.1 The A12 DCO comprises improvements to between Junction 19 (Boreham Interchange) and 25 (Marks Tey) for a distance of approximately 15 miles (24km). The DCO involves widening the carriageway to three lanes throughout and provision of bypasses between Junctions 22 -23 and 24-25. It also includes safety improvements, including closing off direct accesses to the carriageway and providing alternative routes for non-motorised transport to reduce their need to use the A12.
- 11.1.2 The main works to the A12 are anticipated to start in mid-2024, last for three years and cease in late 2027/early 2028. If the DCO is granted however, the Inspectorate is likely to allow a period of five years for commencement of the works. If a granted DCO is challenged under Judicial Review, then this may delay the anticipated build timetable beyond that currently stated.
- 11.1.3 Applying separately for the advanced works here would allow the Applicant to be ahead with the construction programme of remaining development under the DCO if/when it is ready to be commenced. To best optimise and coordinate the two consents, Officers consider that it is appropriate in this instance to invoke the freedoms of legislation and extend the time period of implementation for this permission (if granted) from three to five years. This would reflect the standard DCO implementation time period of five years and prevent a scenario where advanced works granted under this consent were commenced unnecessarily early just to keep the consent alive (should a DCO commencement be delayed for four years, for instance).
- 11.1.4 Under the current predicted timetables stated in the application documentation however, there would only be a very short period in between completion of construction of the development applied for (anticipated March 2024) and commencement of an approved DCO (mid 2024). In its operational phase the compound is proposed to be used to support offsite preparatory works such as construction of the ecological mitigation areas, archaeological works, and any utilities works.
- 11.1.5 Separating the advanced works from the main DCO works in order that they can take place earlier and independently from the DCO consent procedure would allow the Applicant to take advantage of optimal earthwork conditions in spring and summer 2024 for the main works and help avoid any complication or delay to the target timetable for the main works. There are significant economic and social benefits from being able to deliver the main A12 works in a timely and efficient manner, and this permission would help facilitate this.
- 11.1.6 In choosing the location of the compound, the Applicants looked for an unconstrained site which was optimally located for the main works and which had good access to the A12 and the utilities needed. The site

needed to be big enough to contain the wider operational compound serving the main works as well as the temporary compound applied for here for the advanced works.

11.1.7 In addition, a location was required which would not significantly exacerbate existing traffic congestion, but which had some connectivity to a settlement to provide access to sustainable transport alternatives for staff. Whilst there are some neighbouring properties, the site was deemed favourable in comparison to others which had many more neighbours. Furthermore, as the access to the compound would be created off the new local access serving Junction 21, this offered opportunities later to reduce traffic further from Hatfield Peverel.

## 11.2 Visual and Landscape Impact

11.2.1 Paragraph 130 of the NPPF requires among other things that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 174 explains the planning system should recognise the intrinsic character and beauty of the countryside and Paragraph 134 advises that development which is not well designed should be refused.

11.2.2 Policy SP7 of the Adopted Local Plan requires that new development responds positively to local character and context to preserve and enhance the quality of existing places and their environs.

11.2.3 Policy LPP67 of the Adopted Local Plan requires that new development should be informed by, and be sympathetic to, the character of the landscape as identified in the District Council's Landscape Character Assessments. It states that development which would not successfully integrate into the landscape will not be permitted. Policy LPP65 of the Adopted Local Plan acknowledges that the quality of trees is a material consideration and that, where trees are to be retained, suitable distances should be provided to ensure their continued wellbeing.

11.2.4 Policy LPP52 of the Adopted Local Plan establishes that the Council will seek a high standard of layout and design in all developments and that there shall be no unacceptable impact upon the amenity of nearby properties. Policy LPP43 of the Adopted Local Plan requires parking to be in accordance with the Essex County Council Vehicle Parking Standards adopted SPD.

11.2.5 Policy HPE1 of the Hatfield Peverel Neighbourhood Plan states that development should have regard and respect the character of the landscape and its sensitivity to change. It requires existing trees, hedgerows, and habitats to be retained unless the benefits of development clearly outweigh the loss. It requires planting on a development sites to be restricted to locally native species.

- 11.2.6 Policy HPE5 of the Hatfield Peverel Neighbourhood Plan requires the landscape setting of the village to be protected and that proposals do not detract from the key landscape features identified on Map 8 of the Neighbourhood Plan. Map 8 identifies important views south and south-east from the footpath where it crosses the railway line.
- 11.2.7 It is proposed that, once the temporary compound was no longer needed, the land would be handed back to the previous landowner in a similar condition, and for the same use, as before works commenced. If the DCO were granted, the site reinstatement would be agreed and dealt with under that wider DCO. However, if the DCO were not granted, or were not implemented, a condition is proposed which would secure agreement of a scheme of reinstatement within six months of the use ceasing. This would ensure that all assets placed above and below ground would be removed and the landscape recovered to its previous condition with any areas of vegetation removed re-established in broad accordance with the submitted draft Enhancement and Reinstatement Plan.
- 11.2.8 As part of the reinstatement works, the draft plan proposes that topsoil removed during construction that was stored and stockpiled within the storage bunds on site would be respread across the site. Following this, biodiversity enhancements would be implemented including providing a more species diverse mix in the areas of scrub, hedgerow and grassland which had been lost as a consequence of the development.
- 11.2.9 It is unavoidable that a section of historic hedgerow (HID 9275) 8.1m in length would be lost to create the internal access road. However, this hedgerow would be replaced in the long term, as would the 7-9 Category C3 Hazel, Field Maple and Elder trees within group G188 which are shown to be removed as they lie deeper within the site. All other trees and hedgerows would be suitably protected which lie outside or on the boundaries of the site.
- 11.2.10 In particular, the development site boundary respects a good buffer to the potential Veteran Oak Trees (T213 & T215) set within the hedgerow on adjacent land to the east. Where necessary, protective fencing would be erected to ensure protection of the Root Protection Areas for these features. Following discussion with the Local Highway Authority regarding the setback for the visibility splay required, the application was revised to omit any loss of hedgerow along the frontage of the site. A condition for further detail of means of tree protection is proposed to ensure these features are adequately protected during the works.
- 11.2.11 The site is identified as falling within the B21 Boreham Farmland Plateau in the documentation. The visual impact would be negative (moderate adverse) for this period, but the rural character of the site would ultimately subsist in the long term. Overall, there would be no significant effects upon the landscape character of the area once the site has been reinstated.

- 11.2.12 Due to its limited scale, the development would not fall strictly within the 'important views' identified on Map 8 of the Neighbourhood Plan and therefore these would remain intact but may temporarily be adversely affected by the development proposed nearby. It is considered that, as the site would be reinstated, the landscape setting of the village would be protected in the long term and therefore the proposal would be compliant with Policy HPE5 of the Neighbourhood Plan.
- 11.2.13 In conclusion, whilst the temporary compound would give rise to disruption in the existing landscape character of the site, and loss of some of its key features, these would ultimately be reinstated. The proposal would not therefore offend the aforementioned policies.

### 11.3 Heritage & Archaeological Impact

- 11.3.1 Policy SP7 of the Adopted Local Plan requires that new development protect and enhance assets of historical value. Policy LPP47 of the Adopted Local Plan requires that, to protect and enhance the historic environment, all development respects and responds to local context. Policy LPP57 of the Adopted Local Plan states that the Council will seek to preserve and enhance the settings of heritage assets by appropriate control over the development, design and use of adjoining land. Policy LPP59 of the Adopted Local Plan states that, where archaeological potential has been identified but there is no overriding case for any remains to be preserved in situ, then development will be permitted subject to conditions as appropriate.
- 11.3.2 A Heritage Statement accompanies the application. It identifies that there are three Grade II listed buildings within 300m of the site: The Bakery and Unnamed House to the east and Salvador; Hooks and Sheaves; and White Heart Cottage. These assets lie adjacent The Street (B1137), Hatfield Peverel.
- 11.3.3 There is a significant separation distance in excess of 230m for all of these assets from the compound and thus it is not felt that there would be harm to the setting of these buildings. The Council's Historic Buildings Consultant raises no objections on the basis of the temporary nature of the proposal.
- 11.3.4 Whilst a portion of historic hedgerow (H9275) normally afforded protection under the Hedgerow Regulations 1997 would be lost as a result of the compound, these impacts are unavoidable. Whilst this is a landscape feature with historic significance, the harm is considered to be outweighed by the benefits of the development and is proposed to be mitigated by the fact that the hedgerow would be reinstated with an enhanced planting mix following cessation of use.
- 11.3.5 The site has been subject to geophysical survey and trial trenching, which found no evidence of archaeological remains. As a result, no mitigation has been proposed and the ECC Archaeological Advisor raises no objections to the proposal, nor requires any conditions if consent is granted.

- 11.3.6 For the above reasons, it is therefore considered that the proposal would accord with the aforementioned policies designed to protect historic and archaeological assets.
- 11.4 Ecology
- 11.4.1 Paragraph 174(d) of the NPPF requires that proposals minimise their impacts on, and providing net gains for, biodiversity. Paragraph 180 requires that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, then planning permission should be refused.
- 11.4.2 Policy LPP66 of the Adopted Local Plan states that, if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. Policy LPP64 of the Adopted Local Plan requires that where there is a reasonable likelihood of protected or priority species being present on or immediately adjacent to the development site, the developer undertakes an ecological survey to demonstrate that an adequate mitigation plan is in place to ensure no harm or loss to such species.
- 11.4.3 Policy HPE1 of the Hatfield Peverel Neighbourhood Plan states that development should retain and enhance habitats, particularly priority habitats and ancient woodland which are important for their biodiversity value unless the need for, and the benefits of, the development in that location clearly outweigh the loss.
- 11.4.4 The site has been subject to a detailed Ecological Survey. No bat roosts were identified within 50m of the junction compound; however, the site is likely to be used for foraging; as a consequence, a condition requiring submission of details prior to installation of operational lighting is proposed. The site lies within 250m of a pond known to contain great crested newts (GCN), but there is little opportunity for connectivity to the site and the likelihood of encountering GCN in their terrestrial phase was deemed to be small.
- 11.4.5 A Badger Activity Report and Mitigation Strategy with surveys conducted 2019-2022 has been provided (confidentially) with the application. No setts or field signs were identified within the red line boundary, although the habitat on site is considered suitable to support badgers. Subject to further survey, it may be that badger resistant fencing needs to be provided on the site and its spoil heaps, and a scheme for this would be provided under condition if surveys conducted prior to commencement confirm their activity on site.
- 11.4.6 The appropriate Natural England licences, would need to be in place prior to commencing development on the site, but it is not considered that the proposal in its current form would cause impediment to this. The long-term

viability of the species and its habitat can therefore be ensured through the procedural and mitigation measures required under the licence.

- 11.4.7 Surveys confirm that skylarks are likely to use the site as a breeding location and the overall site area may potentially support a number of breeding territories. The Applicant's initial argument was that there would be sufficient habitat in the vicinity to provide alternatives for skylarks in the short term, therefore there is not likely to be a net loss of this priority species, but this rationale was not accepted by the Council's Ecologist. One reason was that it became apparent that much of the surrounding land may well be in use under separate consents including the DCO and therefore would not be available to skylarks in the manner suggested.
- 11.4.8 Following discussions with the Council's Ecologist, it has been agreed to provide a scheme for off-site mitigation under a legal agreement to compensate for the territories lost. Other mitigation measures are proposed to ensure the site is cleared before the breeding season and cannot be re-colonised prior to commencement.
- 11.4.9 The application is accompanied by a Construction Environmental Management Plan (CEMP) for Biodiversity which seeks to limit the effects of the construction phases upon protected and priority species. A condition is recommended to ensure that this is implemented. The CEMP has been subject to a number of revisions to ensure its soundness and the Council's Ecologist raises no objections to the proposal subject to a condition ensuring implementation in accordance with it.
- 11.4.10 In summary, the potential impacts of development upon barn owls, skylarks, nesting birds, reptiles, badgers and great crested newts has been assessed and acceptable mitigation measures have been suggested. It is therefore considered that, subject to conditions, the proposal would comply with the above policies.

## 11.5 Highway Considerations

- 11.5.1 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112 states that within this context, development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas..." and "...create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.
- 11.5.2 Policy LPP43 of the Adopted Local Plan and Policy F12 of the Hatfield Peverel Neighbourhood Plan require parking to be in accordance with the Essex County Council Vehicle Parking Standards adopted SPD. The Neighbourhood Plan notes (Page 38) that improvements to the A12 and the creation of a bypass for Hatfield Peverel are considered by residents as important to mitigate traffic problems [in the village].

- 11.5.3 In the long term there are transport benefits to be gained from delivering the A12 widening works effectively and efficiently, and this proposal would aide these objectives. However, in the short term for the duration of the development applied for under this planning application, there would be temporary adverse impacts. It is worth noting that the planning permission would cease to have effect upon commencement of the DCO, so there would be no opportunity for the works applied for here to take place at the same time as works under the DCO. It therefore falls to the DCO process to consider all the 'in combination' effects of this development and that applied for under the DCO. Only the impacts specifically of work applied or under this planning application should be considered in relation to it.
- 11.5.4 For the duration of the development proposed, a system would be in operation ensuring that access to the site along the slip road would be one-way. Vehicles would need to approach west from the B1137 and turn left into the site. Exiting vehicles would be limited to turning left out of the access directly onto the A12 slip road. Additional speed limit reductions would be imposed around the site, with the national speed limit sign relocated to the east of the junction, and a comprehensive scheme for signage implemented as agreed with the Local Highway Authority.
- 11.5.5 The main access would be served by a 2.4m by 70m visibility splay. Swept path analysis of the junction and interior of the site has been provided where necessary and demonstrates HGV's can pass and manoeuvre adequately on the site. As access gates would be located within the site, any stacking of vehicles waiting to enter the site would not be likely to impact upon the flow of traffic on the slip road.
- 11.5.6 The construction period for the access itself is anticipated to last three weeks. Beyond this, at its busiest point in the construction programme (Weeks 18-19: January 2024), a total of 136 daily two-way movements are predicted. At this time construction of the compound could generate 3-4% increase in traffic above the baseline in the AM and PM peak periods (estimated to be 16 light vehicles per each daily peak period). It is anticipated that all the HGV's visiting the site would do so in the intervening times between the peaks, amounting to 29 HGVs or a 19% increase in this type of vehicle over the baseline. Abnormal loads may feature very occasionally in this calculation.
- 11.5.7 A Construction Traffic Management Plan has been provided by the Applicant to ensure that impacts of all construction activities are minimised during that period. Construction traffic would be limited to use of Junction 20b only, therefore would not travel through the centre of Hatfield Peverel. Once the DCO is implemented, use of the access would cease in favour of alternative arrangements applied for under the DCO.
- 11.5.8 During the access's construction phase, targeted within the last quarter of 2023, there would need to be two weeks of overnight road closures on the A12 northbound slipway. During this phase there would be a direct

interface with the public footway along the A12 slip road. It is proposed that traffic marshals would maintain and control the access to allow pedestrians to move safely through the area. The Public Right of Way (PROW 90\_2) would remain in use for the duration of the development.

- 11.5.9 During the night time closures, local traffic would be diverted to Junction 20a southbound on-slip where the diversion would lead to Junction 19 where a U-turn could be made. The provision for all extended signage routing would to be agreed with the Local Highway Authority prior to the works, but it the Applicant has confirmed it is planned to implement/erect signage at Maldon and Waltham Road in Boreham to notify motorists of the works.
- 11.5.10 Access to The Vineyards would not be restricted during the night-time closures with residents' access maintained and the slip road only shut to traffic beyond The Vineyard entrance. The closure would be staffed in the event of emergency vehicles needing to gain access via the Duke of Wellington Roundabout. If emergency vehicles needed to exit from The Vineyards onto the A12 northbound (due to an emergency), providing works permitted and could be safely halted, a controlled route through the works would be provided to allow emergency vehicles to enter/exit. However, if works are unable to be safely paused, there would be uninterrupted access via Hatfield Peverel with diversion routes onto the A12 northbound.
- 11.5.11 Once the access was in place, work on the compound would begin. It is anticipated they would complete six months later, in Spring 2024. Following that, use of the advanced works compound is targeted to begin in Summer 2024 and permission would last until development approved under the DCO superseded it. According to present timetables, the DCO may supersede the works applied for before the compound became operational. It is hoped that reinstatement of the site could start in Spring 2028.
- 11.5.12 It is accepted that the construction of the compound, particularly at its peak, may give rise to some short lived and noticeable increases in the volume and type of traffic flows at certain times of the day/night. However, these would be localised and would not be sustained for long periods. As such, it is not considered that the residual cumulative impacts upon the road network would be 'severe' in the context of the policy wording in the NPPF, therefore it is not justified to refuse the development based on its impacts upon the road network.
- 11.5.13 The application would be subject to a Construction Method Statement and Management Plan which aims to limit the adverse impacts of these activities. Wheel washing (via jet washing) would be established in a suitable location near the site entrance to minimise mud leaving the area. Prior to leaving the site, plant and equipment would be checked by a supervisor and cleaned as deemed required. The Local Highway Authority raises no objections to the development.

11.5.14 The Parish Council has raised concerns regarding the condition of the Wellington Overbridge, which joins to the slip road that gives access to the site. The bridge is owned and maintained by Essex County Council (ECC) and is due to be replaced as part of the overall DCO works. Should ECC be notified of any damage to the surface of the bridge during the works then it would be obliged to investigate this. Should ECC find the condition of the bridge to be unsafe then they would be required to undertake repairs as part of their statutory function. It is not therefore reasonable to insist the Applicant funds or monitors the works in a way which effectively duplicates the responsibilities provided for already under law.

#### 11.6 Impact upon Neighbouring Residential Amenity

- 11.6.1 Paragraph 130 of the NPPF seeks to ensure good standards of amenity for existing and future users whilst Paragraph 185 seeks to ensure that new development is appropriate for its location taking into account the likely effects on living conditions including noise and light pollution. It recommends that planning decisions mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life (acknowledging advice contained within the Explanatory Note to the Noise Policy Statement for England (Department for Environment, Food & Rural Affairs, 2010)).
- 11.6.2 Policy SP7 of the Adopted Local Plan requires that the amenity of existing and future residents is protected in regard to noise and vibration arising as a consequence of development.
- 11.6.3 Policy LPP52 of the Adopted Local Plan highlights considerations of privacy, overshadowing, loss of light and overbearing impact as being key in the assessment of impacts upon nearby properties. Policy LPP70 of the Adopted Local Plan states that new development should prevent unacceptable risks from emissions and all other forms of pollution, including noise.
- 11.6.4 Policy LPP77 of the Adopted Local Plan is supported by Braintree District Council's Supplementary Planning Document: Artificial Lighting (2009). The Policy seeks to ensure that lighting within development proposals minimise their impact, for example limiting use and ensuring there is no loss of amenity to nearby residential properties.
- 11.6.5 Policy FI1 of the Hatfield Peverel Neighbourhood Plan states that development proposals should prevent unacceptable risks from emissions and all forms of pollution (including air, water, and noise pollution) to ensure no deterioration of current standards. All applications where pollution is suspected must be supported by relevant assessments.
- 11.6.6 For the purposes of this application, the standard working hours of the construction and operation of the compound would be as follows: 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays. An exception

would occur to this for a two-week period at the beginning of the construction works in order to provide the access. This work can only be undertaken if the slip road is closed and the safest time to close this is overnight. In exceptional circumstances, further night-time working may be approved subject to prior notification and approval of the works by the LPA/BDC Environmental Health. Such works would require a detailed explanation and would not be permitted if they could reasonably occur during the day.

- 11.6.7 Taking this into account, it is evident the development would give rise to noise, primarily from vehicle movements, and light. There is also the potential for disturbance from dust and vibration associated with the construction activities, such as the movement soil, and during the operational phases from use of heavy goods vehicles; of which an average of 37 outward movements onto the public road network a day are predicted.
- 11.6.8 Both the office complex and welfare area are located behind high earth bund therefore there would not be any overlooking of neighbouring properties. Bunds A and B are indicated to be constructed following completion of the site entrance. The height of the bunds may vary between 2-3m in height on account of the granularity and cohesiveness of the soil being stored and how this affects the safety of the slope angle. These mounds would then be seeded with grass for the duration of the works. Any excess soil would be stored in the Storage Yard shown in the east of the site, away from neighbours as shown on the submitted documentation.
- 11.6.9 The development applied for is not proposed to be floodlit, but some lighting would be required to ensure safe working conditions and maintain security within the compound. Portable tower lights may be used during periods of night working for construction on the site, but where possible motion sensitive lighting would be used for other areas. It is anticipated most of the lighting would be confined to the car park, buildings, and perimeter of the site to allow monitoring and inspection at night. The car park routes have been aligned parallel to the neighbours rather than facing them to minimise any potential impacts. The details of lighting for the construction and operational phases are proposed to be confirmed via a condition if consent were granted.
- 11.6.10 In summary the Council's Environmental Health Officer raises no objection to the proposal, subject to relevant controlling conditions. For the above reasons it is considered that the impacts would remain within acceptable limits and have been minimised where possible, therefore that the development complies with policy in that regard.

## 1.7 Utilities, Flooding and Drainage

- 11.7.1 Policy LPP76 of the Adopted Local Plan requires all new development to incorporate SuDS to provide optimum water runoff rates and volumes taking into account relevant local or national standards and the impact of

the Water Framework Directive on flood risk issues, unless it can be clearly demonstrated this is impracticable.

- 11.7.2 Policy HPE6 of the Hatfield Peverel Neighbourhood Plan requires that any Junction 20b compound should include measures to mitigate against future risk to properties, residents and wildlife from flooding and be located away from areas prone to flooding.
- 11.7.3 The site is located in Flood Zone 1 and is therefore unlikely to be at risk of fluvial flooding. Land on site falls within the 0.1% Annual Exceedance Probability category for surface water flooding and therefore the risk of a surface water flood event is low.
- 11.7.4 As the provision of hard surfacing and associated development on the site would increase surface water run-off. A comprehensive site Drainage Strategy has therefore been developed which would direct water into a drainage pond in the west of the site with a net attenuation storage capacity of 4,100 cubic metres. This pond would be constructed in the first phase of the drainage works and then be available to collect surface water from the site whilst still under construction.
- 11.7.5 The Flood Risk Assessment submitted explains that the site has been engineered the surface water system with a conservative approach, assuming that the entire site would be impermeable, which may not be the case. The Lead Local Flood Authority (ECC SuDS) raise no objections to the proposal.
- 11.7.6 Interception devices would be used to ensure the water in the pond is not contaminated with oil or pollutants. This equipment would be regularly monitored, and contaminants would be periodically disposed of off-site.
- 11.7.7 The pond would not have an outfall and the water within it would be utilised for dust suppression. Levels within the pond would be regularly monitored and if they were too high then a water management company would be employed to mechanically remove water and transport it off-site.
- 11.7.8 In the operational phases, foul water would be managed by a foul water treatment plant (for example a biodigester system). Waste water would be stored within the treatment plant tank and emptied by a specialist waste water management company on a regular basis.
- 11.7.9 The site would not be served by mains gas. UK Power Networks have a long-term plan to divert the overhead electricity cables (11Kv) which are present on the site. Regardless of this, a connection is achievable from National Highways main distribution board to specifically serve the site. Water would be provided from a main which currently runs under the proposed access road.

11.7.10 The proposal is therefore unlikely to give rise to unacceptable levels of flooding or pollution of watercourses and is compliant with the above policies.

## 11.8 Contaminated Land

11.8.1 Paragraph 183 of the NPPF requires that planning decisions ensure that the site is suitable for its proposed use taking account of any risks arising from contamination. Policy LPP70 of the Adopted Local Plan states development will be permitted where there is no unacceptable risk due to contamination.

11.8.2 The site is in agricultural use and Phase 1 Contaminated Land Survey of the site has not identified any known sources of contamination. Due to a historic record of a brick works to the south, the site was sampled, and no evidence of contamination was found. It is therefore considered unlikely that a significant risk would arise from land contamination. It is therefore considered that the proposal would conform to the above policies concerning land contamination.

## 11.9 Air Quality

11.9.1 Paragraph 185 of the NPPF requires that noise levels are mitigated and reduced to a minimum. Paragraph 186 of the NPPF requires that opportunities to improve air quality or mitigate impacts should be identified, and that decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan. Policy LPP70 of the Adopted Local Plan states that new development should ensure no deterioration to air quality, stating that development should not be permitted where impacts are unacceptable, either individually or cumulatively.

11.9.2 The development is not located in an area designated as an Air Quality Management Area (AQMA). The Applicant has submitted a Construction Dust Risk Assessment Report, which outlines that the main generators of airborne particulates are likely to be the earthworks, construction, and vehicle operations/movements.

11.9.3 Given the nature of the development proposed, it would not be possible to avoid dust being generated particularly during adverse weather conditions and it may cause a nuisance to those living in neighbouring properties and soil nearby vegetation. However, the levels of dust are not anticipated to be such that they would adversely affect human health and, outside of the planning regime, would be subject to statutory control under Part III of the Environmental Protection Act 1990.

11.9.4 The purpose of the Dust Risk Assessment is therefore to ensure that, where possible, the adverse impacts of dust are minimised through careful management and operation of the site. A condition is proposed which

would ensure that the suggested measures within the Risk Assessment are taken forwards and implemented for the duration of the development.

11.9.5 It is considered that given the temporary nature of the development applied for, there would not be sufficient reason to refuse the application based on its impacts upon residential amenity or ecological systems within the vicinity. The proposal is therefore compliant with the policies noted elsewhere in this report provided the aforementioned condition is applied.

#### 11.10 Best and Most Versatile (BMV) Agricultural Land

11.10.1 Paragraph 174 of the NPPF requires that planning decisions recognise the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land. Paragraph 6.28 of the Adopted Local Plan notes that the majority of agricultural land in Braintree District is BMV, but seeks that development only uses BMV where necessary and uses areas of poorer quality in preference to that of higher quality. HPE1 of the Hatfield Peverel Neighbourhood Plan requires development to take account of the economic and other benefits of BMV land.

11.10.2 Whilst the land on site is BMV, the site would be reinstated to its previous condition following the development noting its temporary nature. Furthermore, the Applicant is severely restricted (see reasoning above) as to where they can site the compound and therefore lower grade land is not feasibly available. In view of these factors, it is not considered that the temporary loss would be significant, particularly when taking into account the proliferation of such land within Braintree District and no long-term impacts would arise as a consequence of granting approval for the development specified.

#### 11.11 Minerals Resource

11.11.1 Paragraph 211 of the NPPF states that, when determining planning applications, great weight should be given to the benefits of mineral extraction. Paragraph 212 states that LPAs should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.

11.11.2 Policy S8 of the Essex Minerals Local Plan seeks to safeguard mineral resources of national and local importance from surface development that would sterilise a significant economic resource or prejudice the effective working of a permitted mineral reserve.

11.11.3 The Junction 20b compound is located within a MSA for sands and gravels as designated in the Essex Minerals Local Plan and Policies Map (2014). The site area exceeds the 5ha threshold whereby safeguarding provisions apply. Due to its temporary nature however, the development would not result in significant or permanent sterilisation of the resource and therefore the policies are not contravened in this instance.

## 12. PLANNING OBLIGATIONS

- 12.1 As noted above, Paragraph 180 of the NPPF, Policies LPP64 and LPP66 of the Adopted Local Plan, as well as Policy HPE1 Hatfield Peverel Neighbourhood Plan support the provision of compensatory mitigation where it is identified that protected or priority species are present and would be harmed by the development.
- 12.2 In this case, provision of the required number of skylark breeding territories is necessary to be secured off-site under a Section 106 Agreement to compensate for the habitat lost and these should be maintained for a period of ten years in order to provide the necessary compensation required.

## 13. CONCLUSION

- 13.1 As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);
  - a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and
  - an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).
- 13.2 In this case, and for the reasons set out above, the proposal is considered to accord with the Development Plan, (those policies listed in the report as being the most important for determining the application not being out of date). The proposal would facilitate the efficient and effective delivery of a nationally significant transport project (if granted under the DCO) which could deliver very significant economic and social benefits. The proposal has the ability to reduce some of the adverse impacts of this project by reducing the time it takes to deliver it and assisting its smooth delivery. The economic and social benefits of the proposal have been attributed significant weight.

13.3 In the short term however, several adverse impacts which would arise including inconvenience caused by the disruption of existing traffic patterns, loss of residential amenity, visual and landscape harm, loss of priority habitat, impacts upon protected/priority species and loss of BMV land. However, many of these impacts can be controlled in order that they minimised and disappear in the long term; for example, in terms of biodiversity net gain as the site is reinstated to a more preferable condition overall.

13.4 When these benefits are weighed in the planning balance it is considered that they would outweigh the adverse impacts highlighted and, in the absence of material considerations which would indicate otherwise, the proposal would represent sustainable development. The application is therefore recommended for approval subject to completion of a Section 106 Agreement.

#### 14. RECOMMENDATION

14.1 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:

§ Skylark Mitigation Scheme to be submitted to and agreed with the LPA prior to commencement of development which will ensure the provision of the required number of skylark plots for a ten-year period.

The Planning Development Manager or an authorised Officer be authorised to GRANT planning permission under delegated powers in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

### APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)

#### Approved Plan(s) & Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	
Location Plan	C1514-05-D007	P03
Fencing Layout/Details	C1514-05-D010	P03
Noise Details	C1514-05-D014	P03
General	C1514-05-D015	P06
Drainage Details	C1514-05-D016	P02
Fencing Layout/Details	C1514-05-D017	P03
Elevations	C1514-05-D018	P03
Fencing Layout/Details	C1514-05-D019	P02
Proposed Roof Plan	C1514-05-D020	P02
Drainage Details	C1514-05-D021	P02
Utilities Layout	C1514-05-D022	P02
Signage Details	C1514-05-D023	Rev 01
Other	HE551497-JAC- ELS-5_S1E-DR-L- 0003	P02
Tree Plan	HE551497-JAC- EAR-5_SCHME- DR-L-0102	P02
Access Details	HE551497-EAR- 5_SCHEME-DR-LE- 0103	P02

#### Condition(s) & Reason(s)

##### Condition 1

The development hereby permitted shall commence not later than five years from the date of this decision.

Reason: This condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990 (as amended). The local planning authority allows five years for implementation to reflect the time period of the DCO (if granted), thus allowing coordination and optimisation of works between the two consents.

##### Condition 2

The development hereby permitted shall only be implemented in accordance with the approved plans/documents listed above, except as follows:

- The use of the CCTV/Waiting Room and Site Security Hut as shown on the General Arrangement Plan (Drawing no. C1514-05-D015 P06) have not been permitted.

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

#### Condition 3

The hereby approved use shall cease in its entirety and will no longer be permitted to take place under the benefit of this permission should any of the following occur (whichever is the sooner):

- 1) Development granted under Development Consent Order reference TR010060 (A12 Chelmsford to A120 Widening Scheme) has commenced.
- 2) Development granted under Development Consent Order reference TR010060 (A12 Chelmsford to A120 Widening Scheme) is no longer extant.
- 3) A year has passed since the date of the Planning Inspectorate decision providing notification that development applied for under Development Consent Order reference TR010060 (A12 Chelmsford to A120 Widening Scheme) has been refused.
- 4) Three years have passed since this permission was granted and the Development Consent Order reference TR010060 (A12 Chelmsford to A120 Widening Scheme) has not been granted consent.

Reason: The development applied for is a temporary use and is only appropriate as such and therefore continuation beyond the periods specified shall not be permitted.

#### Condition 4

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order amending, revoking or/and re-enacting that order, the site shall only be used as a Construction Compound in connection with enabling works for the A12 Chelmsford to A120 Widening Project and not for any other purpose. Furthermore, use of the site shall only take place in accordance with the General Arrangement Plan (Drawing No. C1514-05-D015 P06) and for the avoidance of doubt, use of the CCTV/Waiting Room and Site Security Hut shown on this plan have not been permitted.

Reason: In the interests of amenity; to ensure the uses and their impacts are consistent with those applied for.

#### Condition 5

No development shall take place (including any demolition, ground works or site clearance) until the results of further Surveys confirming the presence/absence of Badgers in the vicinity and, if deemed necessary by the Local Planning Authority also the submission of a Badger Method Statement, have been submitted to and approved in writing by the Local Planning Authority. If required, the Badger Method Statement shall contain any precautionary mitigation measures required and/or works to reduce potential impacts upon Badgers during the construction phase. The measures/works shall only be carried out in strict accordance with the approved details and shall be retained in that manner thereafter.

Reason: To conserve protected and priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species

Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) for the duration of the construction process. Agreement is required prior to commencement as the risks arise from the point of commencement; it is not therefore possible to delay this agreement until a later point in time if the above interests are to be effectively protected.

#### Condition 6

No development, including site clearance, preparatory works or construction, shall commence until an Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the Local Planning Authority.

The AMS shall include a Detailed Tree Protection Plan (DTPP) showing the location of all trees and hedges to be retained or removed. The AMS shall also include the precise location and design of protective barriers and ground protection, service routing and specifications, confirmation of works for crown lifting and/or pruning of trees, details of demolition within the Root Protection Areas of trees, areas designated for landscaping/habitat to be protected, and suitable space for access, operation of site machinery, site storage and other construction related facilities.

No works involving alterations in ground levels, operation of machinery or the digging of trenches and excavations of any kind, (including the laying or installation of drains, pipes, cables or other services) shall be carried out within the extent of the spread of any existing trees, shrubs and hedges unless expressly agreed within the AMS.

The AMS and DTPP shall include details of the appointment of a suitably qualified Project Arboricultural Consultant who will be responsible for monitoring the implementation of the approved DTPP, along with details of how they propose to monitor the site (frequency of visits, key works which will need to be monitored etc) and how they will record their monitoring and supervision of the site.

No materials, goods or articles of any description shall be stacked, stored or placed at any time within the limits of the spread of any of the existing trees, shrubs or hedges.

The approved means of protection shall be installed prior to the commencement of any construction, building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the Local Planning Authority.

Reason: In the interests of amenity; to ensure the protection and retention of existing/remaining trees, shrubs and hedges. These details are required prior to the commencement of the development as the potential for harm to be caused arises from the point that construction begins.

#### Condition 7

No beneficial use of the proposed site shall occur until the site access arrangements as shown on planning application drawings HE551497-EAR-5\_SCHEME-DR-LE-0103 P02 have been provided/completed.

Prior to first use, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 70 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times.

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

#### Condition 8

Prior to first use, at least one hundred car parking spaces and the bicycle storage facilities shown on Drawing No.C1514-05-D015 P06 shall have been provided and shall thereafter be retained available for the duration of the use hereby approved.

Reason: To ensure adequate parking and cycle storage facilities are provided within the site in accordance with the Essex Vehicle Parking Standards Supplementary Planning Document (2009).

#### Condition 9

Prior to the installation of any external lighting at the site, a lighting design scheme to protect biodiversity: i) during construction phase; and ii) during the operational phase, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; detail the hours of use and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that the lighting proposed will minimise disturbance to bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained 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 ensure optimum levels of personal safety and prevention of crime are provided whilst also balancing impacts upon landscape, biodiversity and amenity in recognition of the local and national policy objectives and having regard for best practise advice, such as Secured By Design (2019) and the LPA's legal obligations under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species). The details are required prior to commencement as the impacts to be mitigated would arise at the point of commencement.

#### Condition 10

The mitigation measures and/or works set out within the Revised Construction Environmental Plan for Biodiversity (17th August 2023) shall be carried out in their entirety in accordance with the details as submitted and agreed.

Reason: To conserve protected and Protected species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) for the duration of the construction process.

#### Condition 11

The development shall only be carried out in accordance with the revised Construction and Operational Management Plan (Rev 2, August 2023).

Reason: To protect highway efficiency of movement and safety.

#### Condition 12

Notwithstanding the submitted application, no more than one hundred car parking spaces (as labelled such shown on Drawing No.C1514-05-D015 P06) shall be in use at any one time.

Reason: In the interests of amenity; to ensure the impacts of traffic are consistent with those predicted in the submitted application.

#### Condition 13

Other than permitted under Condition 14 of this consent, no site clearance, demolition, construction work or operational use of the site shall take place, including the starting of machinery and delivery of materials, outside the following times:

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

Saturday - 08:00hrs to 13:00hrs

Sundays and Bank Holidays - No work.

Reason: In the interests of residential amenity; to ensure that construction work and use of the site does not unacceptably harm the living conditions of occupants of nearby residential properties including those living at The Vineyards.

#### Condition 14

With the sole exception of a two-week period for construction of the access, any nighttime working shall be notified to the Local Planning Authority 14 days in advance of it occurring and notification shall be accompanied by a Noise Report which is approved in writing by the Local Planning Authority prior to the works applied for commencing. The Noise Report shall thoroughly detail the nature of the works, times and duration of equipment, vehicles to be used, providing the resultant noise levels at the façade of residential properties and details of residual and background noise levels at the times proposed, together with an assessment of the impact of the works and noise mitigation employed. Work shall only proceed for the duration agreed and in accordance with the Noise Report approved.

Reason: In the interests of residential amenity; to ensure that nighttime working does not unacceptably harm the living conditions of occupants of nearby residential properties including those living at The Vineyards.

#### Condition 15

The Dust Mitigation Measures as detailed in Table 3.5 of the submitted Construction Dust Risk Assessment (Version P0.1, February 2023) shall be implemented as stated. Where an installed water supply is not available then a temporary towable dust suppression unit may be used but the water supply must be adequate for effective use.

Reason: In the interests of residential amenity; to ensure that nighttime working does not unacceptably harm the living conditions of occupants of nearby residential properties including those living at The Vineyards.

#### Condition 16

The noise bunds shall be installed as soon as is practicable following completion of the access in accordance with the Construction Compound Noise Bund Details (Drawing No. C1514-05-D014) and all soil storage provided in accordance with the revised Construction and Operational Management Plan (Rev 2, August 2023).

Reason: In the interests of residential amenity; to ensure that noise protective bunding is installed as early in the construction programme as possible and that any further storage of soil does not unacceptably harm the living conditions of occupants of nearby residential properties including those living at The Vineyards.

#### Condition 17

The development hereby approved shall only be implemented and decommissioned in accordance with the submitted drainage details including the Drainage Strategy (March 2023), Drawings numbered C1514-05-D016 P02 and C1514-05-D021 P02 together with email from Laura.hemsley@jacobs.com received 23.05.23 at 10:26am.

Reason: In the interests of amenity and the local environment; to prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, ensure the effective operation of SuDS features over the lifetime of the development and provide mitigation of any environmental harm which may be caused to the local water environment.

#### Condition 19

With the exception that development granted under Development Consent Order reference TR010060 (A12 Chelmsford to A120 Widening Scheme) has been implemented, within six months of the hereby permitted use ceasing, a Scheme of Reinstatement shall have been submitted to and approved in writing by the Local Planning Authority which is in broad accordance with the Enhancement and Reinstatement Plan submitted (Drawing No. HE551497-JAC-ELS-5\_S1E-DR-L-0003 P02). The Scheme of Reinstatement shall precisely detail the reinstatement works, their timing, phasing and implementation and shall be accompanied by Biodiversity Net Gain calculations to ensure that a biodiversity net gain is achieved in comparison

to the site prior to the development hereby approved having occurred. The site shall be reinstated in strict accordance with the approved Scheme of Reinstatement.

Reason: In the interests of amenity and the local environment; to ensure the site is reinstated in a timely manner following cessation of use.

### Informative(s)

#### Informative 1

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.

#### Informative 2

This consent is subject to an Agreement under Section 106 of the Town and Country Planning Act (1990) (as amended) and you are legally obliged to comply with its terms.

#### Informative 3

Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting [www.cadentgas.com/diversions](http://www.cadentgas.com/diversions)

Prior to carrying out works, including the construction of access points, the applicant is advised to register on [www.linesearchbeforeudig.co.uk](http://www.linesearchbeforeudig.co.uk) to submit details of the planned works for review, ensuring requirements are adhered to.

#### Informative 4

Where relevant, all work within or affecting the highway should be laid out and constructed by prior arrangement and satisfaction of the County Highway Authority. Details should be agreed before commencement of the works. An application for the necessary works should be made to [development.managemetn@essexhighways.org](mailto:development.managemetn@essexhighways.org).

#### Informative 5

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.

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission, in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP45	New Road Infrastructure
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP77	External Lighting
LPP78	Infrastructure Delivery and Impact Mitigation

#### Hatfield Peverel Neighbourhood Development Plan 2015 - 2033

HPE1	Natural Environment and Bio-diversity
HPE5	Protection of Landscape Setting
HPE6	Flooding and SuDS
FI1	Transport and Access
FI2	Parking
FI4	Retention of Assets of Community Value

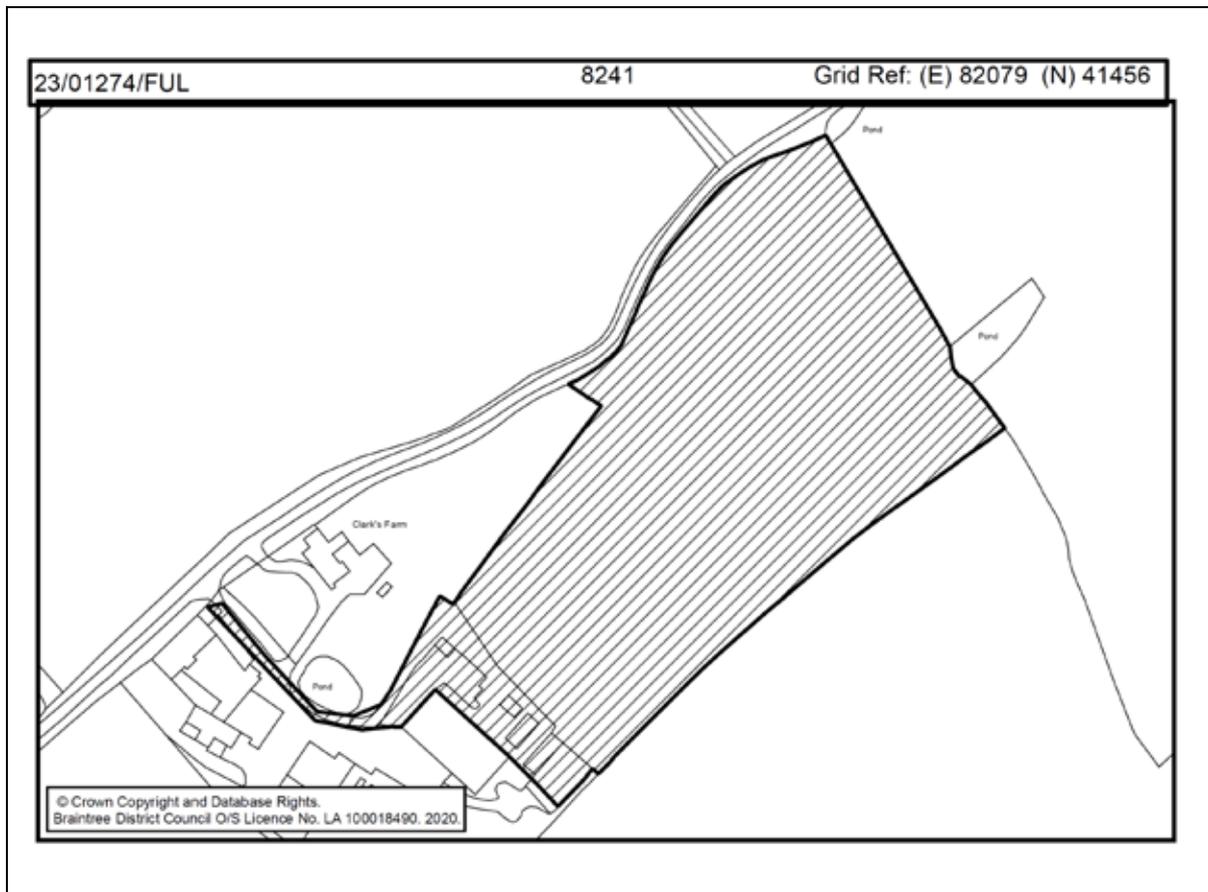
APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
22/02552/TEL	Notification under the Electronic Communications Code Regulations 2003 (as amended) to utilise permitted development rights		27.09.22
22/03340/SCR	Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2017 - Screening Request (Regulation 6)-Creation and use of a temporary construction compound including; access onto the A12, car parking, a storage yard, welfare and office facilities and associated earthworks bund to be located on land to the north of junction 20b at Hatfield Peverel.	Screening/ Scoping Opinion Adopted	22.12.22

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 17th October 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	23/01274/FUL
<b>Description:</b>	Change of use from agricultural land to dog training facilities. Erection of kennel buildings, and office/vet/grooming building.
<b>Location:</b>	Clarks Farm, North Road, Belchamp Walter
<b>Applicant:</b>	Mr Aaron Hogsbjerg, Clarks Farm, North Road, Belchamp Walter, Essex, CO10 7AP
<b>Agent:</b>	Miss Alice Howard, Salter And Mckenna, Lawn Farm, Cornard Tye, Sudbury, CO10 0QA
<b>Date Valid:</b>	2nd June 2023
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made: § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can: a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overtturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Reason(s) for Refusal Submitted Plan(s) / Document(s)
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Jack Street For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2515, or by e-mail: <a href="mailto:jack.street@braintree.gov.uk">jack.street@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	<p>The application was subject to the statutory application fee paid by the applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
<b>Legal Implications:</b>	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications:</b>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting</li> </ul>

	<p>understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 23/01274/FUL.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013-2033)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

## 1. EXECUTIVE SUMMARY

- 1.1 The application relates to Clarks Farm, an agricultural holding within Belchamp Walter. The site is formed of agricultural buildings set within surrounding arable fields, with a Grade II listed residential building (from which the farm derives its name) occupying the north-east section of the site.
- 1.2 The application site is located beyond any town development boundaries or village envelopes as shown on the Inset Maps of the Adopted Local Plan. The site is therefore situated within the countryside wherein development should be for an appropriate use which should seek to support a prosperous rural economy. In order to support a prosperous rural economy, evidence should be provided to explain how a venture would operate, be viable, and how exactly it would support farm diversification.
- 1.3 The application proposes a change of use of agricultural land, 2 hectares in size, to a “dog training facility” as well as the erection of 3no. kennels and 1no. office/vet/dog grooming building. There is no policy precedent for a new commercial venture in the countryside. Whilst farm diversification is supported, Policy LPP7 of the Adopted Local Plan sets out this should be carried out through the conversion, as opposed to development, of buildings within farmsteads.
- 1.4 The application is not supported by a business plan or any financial information from which to assess the viability of this business. There is no clear justification why the loss of 2 hectares of ‘Grade 2’ quality agricultural land is appropriate. The need for 3no. kennels totalling 36no. individual blocks is not clear. Furthermore, the viability of the proposed commercial entity is not known; the upfront construction costs, as well as ongoing costs, are not provided. It is not clear to what extent the business would be viable and how these would profit and support the agricultural entity at Clarks Farm.
- 1.5 The proposal is not supported by a Noise Survey (or equivalent). At maximum capacity, the scheme would provide the kennelling of 36no. dogs which would amount to a highly noticeable level of noise concentrated on the site. No Waste Strategy (or equivalent) has been provided setting out the control and management of waste. The Council’s Environmental Health department have outlined concerns with respects to noise and odour impacts to nearest residential neighbours given the lack of information. The application would be contrary to Policies LPP52 and LPP70 in terms of neighbouring impact.
- 1.6 Although the business would run a transport service to pick-up and deliver dogs to the site, there is a possibility for individuals to visit the site by appointment. This could materially increase traffic to and from the site and the application lacks detail to fully understand and assess these arrangements.
- 1.7 There is no objection to the proposed buildings subject to conditions pertaining to ecological, heritage and design matters. However, the layout of the proposed dog training field is not known; further information would be required in this regard.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation, as the application is deemed to be 'significant' by the Planning Development Manager.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site relates to Clarks Farm, an agricultural unit set amidst sporadic residential development along North Road within the countryside of Belchamp Walter. The site area constitutes an open, undeveloped area of land to the north-east of the agricultural unit and is bounded by an established tree belt along its northern perimeter and is otherwise generally open on its southern and eastern side. Agricultural buildings associated with Clark's Farm occupy the plot to the west of the site.

5.2 The site area integrates into the wider countryside landscape of Belchamp Walter. The site forms part of the Belchamp Farmland Plateau (B4) Landscape Character Area ("LCA"). The District is located within the South Suffolk and North Essex Clayland National Character Area ("NCA").

5.3 The wider arrangement of Clark's Farm includes the Grade II listed farmhouse from which the unit derives its name, which is positioned at the northern edge of the site adjacent to North Road. The unit is otherwise occupied by a mixture of traditional agricultural buildings, comprising materials such as timber and brickwork, and contemporary structures which use metal sheeting. The character of this plot is very much a working agricultural unit, centred on a pond feature.

5.4 To the west of the agricultural unit is an enclosed dog walking field granted under Application Reference 22/02097/FUL. The field is bounded by deer fencing and permits users to walk dogs within a secure enclosure. Conditions attached to the dog walking field permit only a single booking at one time for up to four dogs and no more than one visitor vehicle at any given time. The use is permitted only for the walking of dogs as per the description of development; no training or other activity is permitted by this consent.

## 6. PROPOSAL

- 6.1 The description of development is given as follows: “Change of use from agricultural land to dog training facilities. Erection of kennel buildings, and office/vet/grooming building.” The individual aspects are outlined below.
- 6.2 The change of use from agricultural land to dog training facilities regards the plot of land to the east of the agricultural unit.
- 6.3 The field comprises some 2 hectares (“ha”) not including the area indicated for the erected buildings; with this area included, the total site edged red comprises 2.30ha. The change of use would provide an area of land for the purposes of dog training and would be enclosed using 1.80 metre (“m”) high stock fencing with wooden posts.
- 6.4 Whilst the change of use is described as agricultural to “dog training facilities”, it should be noted that there are no further details setting out what training facilities are proposed (i.e. hurdle bars, agility posts) and where these would be sited or stored within the site.
- 6.5 The erection of kennels buildings would comprise 3no. kennel blocks positioned parallel to one another in the southern section of the site area.
- 6.6 These buildings would provide 12no. individual kennels, each totalling 36no. individual kennels in total. Each building would include the kennel blocks attached to an enclosed corridor from which external access is gained. To accommodate the proposed kennels, a collection of existing buildings would be removed. It has been observed on site that these buildings are vacant and are of poor condition, demonstrating clear signs of general dilapidation.
- 6.7 The proposed kennel blocks would measure a total height of 5.350m, comprising a 2.20m eaves height and the remaining height (3.150m) formed by the pitched roof. The footprint of the building would measure 24.0m x 6.0m. The structure would be built from facing red brickwork with a red tile roof, with an open fronted appearance with kennel panels (likely to appear as a galvanised bar fence) inserted between brick piers.
- 6.8 The proposed office/vet/grooming building, henceforth referred to as the ‘office building’ in this report, is positioned on the western section of the site edged red at the point adjacent to the access.
- 6.9 The building would comprise an ‘L-plan’ layout arranged with two gable-ended structures reaching an apex of some 5.380m in height. The core building, which includes a reception, rest room, kitchen and wash room, comprises a footprint of 15.359m x 6.0m with a vet clinic to the rear measuring 6.0m x 6.0m. The building would comprise red brick and tile.
- 6.10 Opening times are outlined on the application form as Mon – Fri 07:00 – 19:00, Sat 07:00 – 17:00, Sun/Bank Holiday 07:00 – 17:00.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 BDC Ecology

7.1.1 No objection, subject to a condition attached to any grant of permission requiring a Biodiversity Enhancement Layout providing the finalised details and locations of proposed enhancement measures.

### 7.2 BDC Environmental Health

7.2.1 Objection. The application does not provide sufficient assurance that the proposed would not give rise to a detrimental impact upon the amenity of local residents due to the likelihood of noise arising from dog barking. No Noise Survey (or equivalent) has been submitted.

7.3.2 In addition, no details have been submitted which set out how waste will be controlled and what management arrangements will be in place to prevent nuisance from waste, such as through dog faeces accumulation.

### 7.3 Essex Highways

7.3.1 No objection to the proposed scheme, which would not be detrimental to highway safety or efficiency. An informative was outlined requiring that proposed fencing should be placed a minimum of 0.5m from the edge of the highway (North Road) and should be clear of any visibility splay.

### 7.4 Essex County Council ("ECC") Historic Buildings Consultant

7.4.1 No objection to the proposed scheme, which would not result in harm to the listed building nor its setting. However, this was subject to conditions requiring further details relating to building materials, fenestration details, and details of hard and soft landscaping prior to the commencement of works.

## 8. PARISH / TOWN COUNCIL

### 8.1 Belchamp Walter Parish Council

8.1.1 Belchamp Walter Parish Council objected to the application on the following grounds:

8.1.2 *Effect on the village.* The proposed commercial enterprise for training up to 36no. dogs is not in keeping with the village.

8.1.3 *Noise.* 36no. dogs will result in considerable noise generated from the site and there is insufficient intervening landscaping (i.e. trees) to provide an effective barrier for noise travelling from the site. It would significantly impact neighbour's enjoyment of their properties.

- 8.1.4 *Safety.* Increase traffic would create safety issues for highway users. In addition, the potential kennelling of up to 36no. dogs increases the risk of escape and such a facility should be placed in an area with high security and access and not close to neighbouring residential properties.
- 8.1.5 *Smell.* The smell likely to be generated by the kennelling of 36no. dogs is of concern.
- 8.1.6 *Loss of arable land.* The proposed site constitutes arable land which would be removed by this application.

## 9. REPRESENTATIONS

9.1 A site notice was displayed at the entrance to the application site for a 21 day period and immediate neighbours were notified in writing. In response to this application, 34no. objections were received and 4no. comments in support. These are summarised below.

### 9.2 Summary of Objections Received

- The development would fundamentally alter the peaceful character of the village and countryside.
- Unacceptable increase in traffic generation from the site.
- Unacceptable increase in noise, odour, and disturbance on residential amenity.
- Concern that local residents may feel intimidated by the noise and disturbance associated with 36no. dogs and may change their patterns of travel to avoid the site.
- The introduction of 36no. permanent kennels would significantly compound existing issues experienced with the site (particularly noise and traffic).
- The site may be remote although the degree of separation from surrounding residences is not sufficient. There is insufficient noise suppression in this rural area to mitigate.
- Continual noise and disturbance could negatively impact the mental health of local residents.
- Concern toward the safety and security of the site. Additional concern raised that the proposed fencing would not be sufficient.
- Introduction of fencing close to the highway may impact visibility.
- Concern raised toward the proposed operation hours.
- Concern toward any future need for external floodlighting.
- The scheme would require the complete rebuilding of structures which is contrary to Policy LPP7 of the Braintree District Local Plan 2013 – 2033.
- The scheme would not be in keeping with the listed farmhouse.
- Would result in an inappropriate loss of agricultural land.

9.2.1 Please note that the above intends to provide a summary of the representations received. The comments are available in full online and

have been considered in their totality by the Case Officer during the assessment process.

9.2.2 It is noted that some representations have made references to potential breaches of planning application 22/02097/FUL and its conditions. It is suggested that the field is being used for training purposes and exceeds the limitations of use imposed by the Local Planning Authority. This is subject to a separate Planning Enforcement investigation.

### 9.3 Summary of Support Received

- Farm diversification is essential for the farming community to support to viability of rural enterprise. This is encouraged by the National Planning Policy Framework.
- The scheme would provide employment opportunities for the local community.
- The scheme may result in a positive boost to the local economy.
- There is a clear demand for this type of development.
- The buildings proposed are appropriately designed.
- Comments in support have stated they are not impacted by noise or traffic disturbance.
- Comments in support have suggested that converting the existing buildings would be a beneficial utilisation of the structures.

9.3.1 Please note that the above intends to provide a summary of the representations received. The comments are available in full online and have been considered in their totality by the Case Officer during the assessment process.

9.3.2 Additionally, a reply was received from the Agent, on behalf of the Applicant on 30.06.2023.

## 10. PRINCIPLE OF DEVELOPMENT

10.1 The application site is located beyond any town development boundaries or village envelopes as shown on the Inset Maps of the Braintree District Local Plan 2013-33 (“the Adopted Local Plan”). As such, the application site is formally located within the countryside. Policy LPP1 of the Adopted Local Plan requires that development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.

10.2 With consideration given to Policy LPP1, Officers must first consider whether the development constitutes a “use appropriate to the countryside” as is required to establish the principle of development. When doing so, Officers note Policy SP3 of the Adopted Local Plan which seeks to support the rural economy which aligns to national objectives set out in the National Planning Policy Framework (“NPPF”).

- 10.3 Fundamental to the determination of this application is determining where the principle of development is established by the Development Plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led.”
- 10.4 The application proposes the demolition of existing buildings and the erection of a total of 4no. buildings; the 3no. kennel buildings and the office building. Policy LPP7 of the Adopted Local Plan, along with its supporting text, sets out an objective to support the rural economy. However, the wording of the policy is clear in suggesting that, outside of development boundaries, proposals for small-scale commercial development will be considered acceptable where it will “involve the conversion and re-use of existing buildings that are of permanent and substantial construction and capable of conversion without complete re-building.”
- 10.5 The buildings observed by the Local Planning Authority on site cannot be considered of a level of construction capable of conversion without complete rebuilding. The structures are described in the Applicant’s Design and Access Statement as “structurally unsafe” which is not testament to its prospects for conversion. The loss of buildings to accommodate new structures is not what Policy LPP7 of the Adopted Local Plan seeks to encourage or provide.
- 10.6 The creation, then, of a small-scale commercial development outside of development boundaries is not considered to have clear policy precedent. Where there is no clear policy precedent for the development proposed set out in the Development Plan, Officers turn to the NPPF.
- 10.7 Paragraph 81 of the NPPF outlines that planning decisions should help create the conditions in which businesses can invest, expand, and adapt. Paragraph 84 in particular outlines national planning objectives to support a prosperous rural economy, outlining *inter alia* that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, and the development and diversification of agricultural and other land-based rural businesses.
- 10.8 In order to support a prosperous rural economy, it is evident that such a venture should be viable and should demonstrate how exactly the business would support the prosperity that the NPPF seeks to encourage. The application is not supported by a business plan, and instead details are only provided which outline the type of activity to be carried out. Furthermore, it is not clearly evidenced why 3no. blocks of kennels, totalling 36no. individual kennels, has been put forward. There is a general lack of clear evidence as to how a facility of the scale proposed would operate, remain viable, and how it would support the diversification of the farm beyond the basic assertions put forward in the Applicant's Design and Access statement.

- 10.9 The Local Planning Authority supports and encourages farm diversification, as is evident through the Development Plan. However, there is no clear business plan or equivalent details which show exactly how the business to the scale proposed would operate and how exactly it would support a prosperous rural economy through diversification beyond simple assertions that it will generate an additional income stream. The erection of new buildings to support a business venture should be backed up in clear, resounding justification – particularly given that there is no clear policy precedent set out in the Development Plan. As noted in Paragraphs 10.4 and 10.5 of this report, Policy LPP7 of the Adopted Local Plan is not applicable.
- 10.10 It therefore follows that, based on the level of information provided with this application, it cannot be said that the proposed business accords with the Development Plan. It is therefore considered that the principle of development cannot be supported in this case.

## 11. SITE ASSESSMENT

### 11.1 Change of Use of Agricultural Land

- 11.1.1 The application proposes the change of use of around 2ha of agricultural land to provide land for a “dog training facility.” The reasoning why a large plot of land such as that indicated on the submitted plans is required for the purposes of dog training are not made clear in the application documents. It is noted that the arable land has contributed to the agricultural activity experienced at Clarks Farm.
- 11.1.2 As set out in Section 10 of this report, there is a lack of information provided within the application documents which clearly sets out a business plan or details of how the business would expect to run (including how it would interact with and support the farm activity at Clark’s Farm). Therefore, it follows that there is no clear assurance that the business would remain viable following the commencement of its operation. As it stands then, the granting of permission for the change of use of up to 2ha of arable agricultural land to facilitate a commercial venture whose prospects of viability are not clearly evidenced or known, would not be deemed appropriate.
- 11.1.3 Paragraph 174(b) of the NPPF sets out that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland. Paragraph 6.29 of the Adopted Local Plan sets out that 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.

- 11.1.4 The application is not supported by any assessment of the land or its agricultural classification or grading. Consultation of Natural England's Agricultural Land Classification map Eastern Region (ALC008) demonstrates the site to fall within a zone indicated as 'Grade 2: Very Good Quality Agricultural Land'. This land has minor limitations which affect crop yield, cultivations or harvesting. It can support a wide range of agricultural and horticultural crops but there can be some reduced flexibility on land within the grade, which causes difficulty in the production of more demanding crops (i.e. winter harvested vegetables and arable root crops.) This land is high yielding but may be lower or more variable than Grade 1 ('excellent quality').
- 11.1.5 As noted in Section 10 of this report, particularly Paragraphs 10.4 and 10.5, there is no clear policy precedent for the works proposed and Policy LPP7 of the Adopted Local Plan is not relevant. Turning then, to the NPPF, it is clear that planning decision should support a prosperous rural economy and farm diversification, but should balance this against economic and other benefits of the best and most versatile agricultural land. Although there may be cases where the loss of higher quality agricultural land would be outweighed by the benefits of a proposal, there is little evidence for the Local Planning Authority to rule on this matter.
- 11.1.6 If a sound and robust justification, which demonstrates the viability and business plan of the commercial venture (to the scale proposed) and how exactly this would support the farm, such an assessment as to the appropriateness of the change of use could be considered. It is noted that the upfront costs of dismantling the existing buildings, erecting the new structures, as well as ongoing costs of the marketing, transportation and staff costs associated with the business, are not known. The ongoing viability of the business, and how or at what point money is generated and incorporated as a viable revenue stream for the agricultural business, is also not known.
- 11.1.7 Furthermore, it is not known exactly what a 'dog training facility' explicitly conveys. As will be discussed in subsequent sections of the report, it is not known whether the training methods utilised would be appropriate within proximity to existing residential dwellings, nor is it known what level of training equipment would be required. Finally, it is not clear why 36no. dog kennels are required and how this informs the business model.
- 11.1.8 For these reasons, therefore, it cannot be suggested by the Local Planning Authority that the proposed change of use would be an appropriate and viable use of what is identified as Grade 2: Very Good agricultural land. Although the NPPF supports farm diversification, there is insufficient detail for Officers to be able to conclude that this would be realised through the proposed change of use. As such, the change of use of land cannot be supported.

- 11.2 Design, Appearance and Impact upon the Character and Appearance of the Area
- 11.2.1 Paragraph 126 of the NPPF states that good design is a key aspect of sustainable development. Policy SP7 of the Adopted Local Plan states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs.
- 11.2.2 Policy LPP52 of the Adopted Local Plan requires *inter alia* that designs 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.
- 11.2.3 The site is located within the Belchamp Farmland Plateau LCA and the South Suffolk and North Essex Clayland NCA. Policy LPP67 of the Adopted Local Plan is relevant to this assessment which requires that developments integrate into their respective landscapes and are sympathetic to their surrounds, particularly in countryside settings.
- 11.2.4 The assessment of the design and appearance impacts of the development can be considered two-fold; the effects of the change of use of the agricultural land including its enclosure and physical alterations arising from its use, and the impacts of the 4no. proposed buildings.
- 11.2.5 Starting with the change of use, the application describes the change of the agricultural land to provide a “dog training facility.” The provided site plan indicates no designation of particular areas for types of training across the application site, wherein the general assumption from the plan is that the land would remain as it is in-situ, save for planting of grass as stated by the Applicant. In such a case, this would be appropriate and would readily settle in against the rural countryside context the site is situated within.
- 11.2.6 However, Officers have observed training equipment on a neighbouring field to the west where a dog walking facility was granted permission by Application Reference 22/02097/FUL. There is no consent in place for the use of this neighbouring field for the purposes of training wherein the use of this equipment and the field more generally is subject to separate investigation by the Council’s Planning Enforcement team. Notwithstanding, it is evident from these observations that training taking place on site may utilise equipment which, if positioned indiscriminately across the site in an uncontrolled manner, may impact the intrinsic countryside character of the locality. Partitioning of the field could also create a jarring visual appearance out of keeping with the local character of surrounding arable fields.
- 11.2.7 Although the preceding paragraph raises a clear concern, these result from the lack of detail demonstrated in the plans. As such, the plans are taken as what they show to be the retention of an open field of land. In the event

of approval, conditions would seek to agree a finalised site layout for equipment and to restrict the areas, height, and quantity of equipment. However, as shown on the plans, the physical alterations to the site surface through the planting of grass is acceptable.

- 11.2.8 The enclosure of the land with 1.8m high deer fencing is not an objectionable premise. Although this would create a physical enclosure of the land, the fencing proposed is a common feature within countryside landscapes particularly where agricultural activity is present. The fencing is visually permeable and would not represent a harsh introduction across the field perimeter. It is not considered the fence would unacceptably alter the site area and its environs as it is shown on the submitted plans.
- 11.2.9 Turning to the proposed buildings, assessment begins with the larger office building. It is noted that the building would replace an existing structure in-situ, wherein the presence of built development in this particular location is already experienced. The building, although of a more conventional and permanent construction to the structure it would replace, would appear subordinate to the large scale of the adjoining agricultural buildings. Its use of traditional materials, namely facing red brickwork and red tiles, would reflect the traditional qualities of the farmstead whilst the fenestration pattern would not be objectionable. Subject to conditions which would be recommended with respects to building materials, this building could be considered acceptable.
- 11.2.10 The proposed kennels would represent a more functional, utilitarian appearance by virtue of the use proposed within each structure. The buildings would replace existing structures in these positions, understood to previously been used as coops for poultry. The kennels would be of a similar size and stature to the buildings they would seek to replace, and would be outwardly subordinate by the larger agricultural buildings adjacent. The kennel buildings would be of an appropriate materiality, final details of which could be agreed by condition to ensure acceptability. Indeed, although the rationale for the need for 3no. kennel buildings is not clear, in an event where such justification was provided, it is not considered that the design and appearance of the kennels would be contrary to relevant policies.
- 11.2.11 As such, subject to conditions relating to a final site plan demonstrating any designated training areas, equipment storage and subdivision of the agricultural plot, and conditions requiring samples of the materials to be used on the proposed buildings, the scheme could be considered acceptable on design and appearance grounds.
- 11.2.12 In addition, it is noted that the hours of use set out in the application form would suggest that the facility may be in operation during winter months. This may necessitate the use of external lighting to ensure the safety of facility users and staff, as well as security across the premises. This may also be true during inclement weather. Therefore, although there is no external lighting proposed within the application, it is not unreasonable to

rule out this possibility. Given the openness of this countryside site, it is not considered that uncontrolled external lighting would be agreed. A condition would restrict external lighting wherein any future lighting would require permission.

### 11.3 Heritage

- 11.3.1 Policy LPP57 of the Adopted Local Plan also requires that all designated heritage assets must meet the tests set out in national policy. The tests relevant in this section include those set out in Section 16 of the NPPF and Sections 16 through 17 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 11.3.2 The site area is occupied by Clark's Farm, a Grade II listed farmhouse from which the agricultural unit derives its name. The works proposed are sited to the south and east of the listed building, wherein the works would form part of the setting of the listed building and thus carry the potential to impact its significance.
- 11.3.3 The Council's Historic Buildings Consultant has acknowledged that the new buildings would be visible from the Listed farmhouse, yet their single-storey height and, provided appropriate materials are used, their visual presence would not necessarily result in harm to the listed building. Given the visual presence of the kennel buildings within the setting of the Listed building, good-quality, traditional materials should be used, such as soft red bricks. A traditional bond, such as Flemish bond would be appropriate within the setting of the listed building, and this would replicate the brickwork of the earlier barns that front North Road. Flint panels could also be considered. Handmade clay tiles should also be used.
- 11.3.4 The use of uPVC for doors and windows as indicated in the application form would not be appropriate and either timber or powder-coated aluminium should be used. Without attention to detail and the use of appropriate materials, the scheme could potentially have a detrimental impact on the Listed building's setting. This could, however, be controlled by planning condition.
- 11.3.5 Overall, no objection was raised to the scheme on heritage grounds by the Historic Buildings Consultant although this is subject to planning conditions requiring:
- Details and specifications of all external finishes, brick bond, mortar colour and pointing profile;
  - Eaves to all roofs to be open with exposed rafter feet rather than boxed;
  - Additional drawings and details of proposed new windows, doors, fascia and sills to be used;
  - Details of all hard and soft landscaping and boundary treatments (including perimeter fences and gates).

11.3.6 Subject to the conditions above, the scheme could be considered acceptable on heritage grounds.

### 11.3 Ecology

11.3.1 The Council's Ecology Officer have considered the submitted scheme and noted the conditions on site. The site falls within the Impact Risk Zone of Cornard Mere, Little Cornard Site of Special Scientific Interest ("SSSI") and the Glemsford Pits SSSI. With this noted, the features on site, namely the structures due for removal and the presence of a pond within the vicinity.

11.3.2 The Ecology Officer noted that no ecological information has been submitted with the application. In the absence of such information, a desk study has been undertaken using appropriate resources and information gathered during a site visit to the property.

11.3.3 It is not considered by the Ecology Officer that the site has any suitability to support protected species. The buildings proposed for demolition are considered to have no bat roosting potential due to their state of construction whilst the pond has no emergent vegetation suitable to support Great Crested Newts. No suitable terrestrial habitats have been identified. As such, the impacts of development to designated sites, protected species, priority species and habitats can be predicated.

11.3.4 It is recommended that bespoke ecological enhancements are implemented for this application to secure measurable net gains for biodiversity. Should planning permission be granted, it is recommended that a Biodiversity Enhancement Layout should be secured by condition which should demonstrate features, which could include bird nesting boxes, bat roosting boxes and native planting, and details of their position. This would be required prior to first use of the site proposed.

11.3.5 As such, it is considered that the scheme would not conflict with relevant policies relating to biodiversity and ecology, namely Policies LPP64 and LPP66 of the Adopted Local Plan, as well as the NPPF.

### 11.4 Highway Considerations

11.4.1 Policy LPP43 of the Adopted Local Plan states that development will be required to provide off-street vehicle parking in accordance with the Council's Adopted Parking Standards. When considering the impact of this factor, Paragraph 2.7.1 of the Essex County Council Parking Standards Design and Good Practice (September 2009) states that "prior to any extension or change of use, the developer must demonstrate that adequate parking will be provided".

11.4.2 Policy LPP52 of the Adopted Local Plan requires that the access and traffic generated by the development can be accommodated without adverse impact on the local road network. This is reinforced in the NPPF.

- 11.4.3 With respects to the impact on the local highway network, Essex Highways were consulted. No objection was raised on grounds of highway safety, although it was noted that any gates/fences should be positioned at least 0.5m back from the highway. A landscaping condition would require soft/hard landscaping and means of enclosure to be detailed on plans wherein the location of the gate could be detailed and shown to meet this 0.5m setback requirement. Subject to this condition, then, there would be no unacceptable impact to the local highway network.
- 11.4.4 The proposed development would be accessed via the existing farm access to the unit from North Road. The submitted Design and Access Statement sets out that the main access would be used solely by staff and the “occasional client wishing to view the premises which will be done on an appointment only basis.” Dogs would primarily be transported to the site via a drop off and pick up service for dog owners.
- 11.4.5 It is not clear how this service would operate – how many dogs can be transported at once? How many trips are envisaged on a daily basis? What times the pick up/drop off would usually occur? Notwithstanding, a ride-share system to limit the overall number of vehicle movements is preferable to individual journeys from an environmental perspective owing to the reduction in overall car journeys to and from the site. Further detail, however, would be needed and would usually form part of a business plan which is lacking in this submission.
- 11.4.6 Officers note the Design and Access Statement sets out the access would mainly be used by staff. Noting this likely includes those tasked with pick-up/drop-off responsibilities, this is likely to also include those working at the on-site reception building, those maintaining the kennels, those training the dogs, those grooming the dogs and (owing to the indicated vet facility) a trained veterinarian. Whilst it may be possible for one person to carry out multiple responsibilities on site, it is equally reasonable to consider the possibility of each of these job responsibility being carried out by a single person in each role dependant on staff resourcing and skillset availability. Not least would this increase staff costs (see Section 11.1 of this report), this would require a commensurate level of parking provision and an increased number of vehicle movements for each staff member.
- 11.4.7 The Essex Vehicle Parking Standards sets out the provision for former Use Class D1, which included clinics (i.e. veterinary) and training centres (*Use Class D was revoked from 1 September 2020. D1 was split out and replaced by the new Classes E(e-f) and F1. For the purposes of this assessment, however, the D1 parking provision in the Parking Standards is used*). However, the plans do not indicate dedicated parking spaces for members of staff nor how/where the pick-up/drop-off facility on site would be positioned. Vehicle movements, parking provision and manoeuvrability are factors which are therefore not evident. In addition, how these interact with existing agricultural traffic is also not clear.

11.4.8 Whilst it is possible that the area of hardstanding forward of the reception building would be utilised for parking, whether spaces would be to a required standard of provision, in terms of number of spaces, size of spaces (5.5m x 2.9m) and manoeuvrability as required by the Parking Standards, is not clear. Thus, information with respects to staff numbers, envisaged traffic movements and parking provision is not considered to be sufficient. Notwithstanding this uncertainty, given the unsustainable location of the site in this rural part of the District, it is considered that the proposed use would place reliance on private vehicles to access the site.

#### 11.5 Impact upon Neighbouring Residential Amenity

11.5.1 Policy LPP52 of the Adopted Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties. Unacceptable impacts are considered as any factors that can carry the potential to degrade the enjoyment of neighbouring properties in terms of overlooking, overshadowing, loss of light or loss of privacy. Such requirements are further enforced by the NPPF.

11.5.2 With respects to Policy LPP52 as outlined above, it is not considered that the works would amount to levels of overlooking or overshadowing which would have an unacceptable impact on neighbouring privacy and lighting respectively. The proposed structures are set adjacent to the agricultural unit and the physical stature of the buildings would not prejudice neighbouring amenity. The change of use of the land would also not introduce any unacceptable neighbouring impacts in terms of overlooking and overshadowing.

11.5.3 The main concern in terms of neighbouring impacts, however, would be the experience of the facility from surrounding residential properties. Policy LPP70 of the Adopted Local Plan requires Officers to consider potential impacts arising from the development, including by virtue of noise and odour.

11.5.4 The Council's Environmental Health department have considered the application and note the lack of a Noise Survey (or equivalent) which quantifies the levels of noise expected on site as a result of the proposed scheme and how this would be mitigated. Although some assertions are made in the submitted Design and Access Statement, there are no acoustician reports or noise impact assessments which establish the existing background noise levels from which the proposed impacts of the scheme can be compared against. At maximum capacity, the scheme would provide the kennelling of 36no. dogs which, at the very least, would amount to a highly noticeable level of noise concentrated on the site. Without a clear, detailed appraisal by an acoustician setting out the expected noise levels and any mitigation measures, Officers must give great weight against the potential harm to neighbouring amenity. As such, it is considered there is a real prospect that noise would have a detrimental impact on neighbouring amenity – particularly to the nearest dwellings to the site along North Road – and this cannot be supported.

- 11.5.5 With respects to odour, the Council's Environmental Health department have also outlined that further detail and consideration of controls in place to control waste produced from site and what management arrangements would be in place should be provided. This would be in order to prevent nuisance from dog faeces accumulation. A Waste Strategy (or equivalent) has not been provided and thus there is insufficient clear detail as to such arrangements for Officers to consider this matter further.
- 11.5.6 As noted by the Environmental Health department, that the nearby residential properties are under the control of the farm is not pertinent to this assessment. These residents would still reserve the right to complain about disturbance. In addition, the NPPF is clear that planning decisions should consider present and future occupier amenity. Therefore, no weight is given to the fact the houses are currently owned by the farm in this assessment.
- 11.5.7 The scheme therefore does not provide sufficient detail to indicate compliance with Policy LPP70 of the Adopted Local Plan. The application is therefore not supported on these grounds.

## 12. CONCLUSION

- 12.1 The scheme lacks sufficient details for the Local Planning Authority to be able to definitively determine the application. Although farm diversification and a prosperous rural economy is supported by local and national policy objectives, whether the change of use proposed would be viable cannot be determined from the information provided. The upfront construction costs of the buildings proposed, their maintenance and management, as well as associated staff costs, insurances, and marketing of the site would likely cumulate to high initial investment. How, and at which point, funds transfer to the agricultural unit to support its vitality is not clear. A clear, robust business strategy which justifies the change of use of this agricultural land would be needed.
- 12.2 The insufficient information also extends to how the business would operate; i.e. which activities would take place where in the field, and whether external equipment which could potentially create visual impacts would be needed. The generation of noise and odour is also completely realistic, and there is insufficient information setting out noise levels or odour management strategies to demonstrate compliance with Policy LPP70. It is noted the Council's Environmental Health department objects to the application on these grounds.
- 12.3 Finally, parking provision and on-site vehicle movements and manoeuvrability is not clear. Whether spaces would be to a required standard of provision, in terms of number of spaces, size of spaces (5.5m x 2.9m) and manoeuvrability as required by the adopted Parking Standards, is not clear.

12.4 As such, the Adopted Local Plan does not establish a principle of development and there is insufficient information provided to ascertain that the scheme would support farm diversification which should dictate otherwise. The application generally lacks sufficient information for the Local Planning Authority to rule out the prospect that the scheme would result in unacceptable neighbouring impacts, insufficient parking provision, and potential impacts on the countryside landscape and LCA. The scheme is therefore recommended for refusal.

13. RECOMMENDATION

13.1 It is RECOMMENDED that the following decision be made:  
Application REFUSED for the reasons outlined within APPENDIX 1.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

### REASON(S) FOR REFUSAL / SUBMITTED PLAN(S) / DOCUMENT(S)

#### Submitted Plan(s) / Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Existing Elevations	1	N/A
Proposed Site Plan	2	N/A
Location Plan	3	N/A
Block Plan	4	N/A
Existing Site Plan	5	N/A
Fencing Layout/Details	N/A	N/A

#### Reason(s) for Refusal

##### Reason 1

The application proposes a commercial venture within the countryside. There is no policy precedent within the Braintree District Local Plan 2013 - 2033 for the creation of new commercial development within the countryside, wherein the proposed development could not be supported without clear evidence setting out how the development would support a prosperous rural economy in accordance with the National Planning Policy Framework. There is a lack of evidence setting out how the business would operate, the viability of the business, and how it would financial support and benefit the existing rural enterprise at Clarks Farm.

Furthermore, owing to the lack of justification, it is not clear why the number of kennels is needed to the extent proposed and how the dog training facility on the field would operate. The evidence provided is insufficient and does not justify the loss of 2 hectares of 'Grade 2: Very Good' quality agricultural land, especially given the viability of the proposed business is not known.

The application would therefore be contrary to Policy LPP1 of the Braintree District Local Plan 2013 - 2033 and the National Planning Policy Framework.

##### Reason 2

The application is not supported by any information to address the noise and odour to be generated from the proposed use of the site. As such, it is considered that the proposed development would result in unacceptable impacts to neighbouring residential properties in terms of noise and odour emissions. As such, the proposed development would conflict with Policies LPP52 and LPP70 of the Braintree District Local Plan 2013 - 2033.

##### Reason 3

Although the proposed development would operate a transportation service to deliver dogs to and from the site, the exact arrangements of such a service are not known. Associated vehicular movements required by the proposed transportation service, as well as any staff movements or movements by prospective customers visiting the

site, is likely to amount to a material increase in vehicular movements in this countryside location, and it is not clear how agricultural and pedestrian traffic would be managed within the site. Furthermore, given the unsustainable location of the site it is considered that the proposed use would place reliance on private vehicles to access the site. The application would therefore be contrary to Policies LPP42 and LPP52 of the Braintree District Local Plan 2013 - 2033.

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying the matters of concern and discussing these with the applicant either at the pre-application stage or during the life of the application. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. The applicant may wish to seek further advice from the Local Planning Authority in respect of any future application for a revised development.

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP5	Employment
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP7	Rural Enterprise
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP77	External Lighting

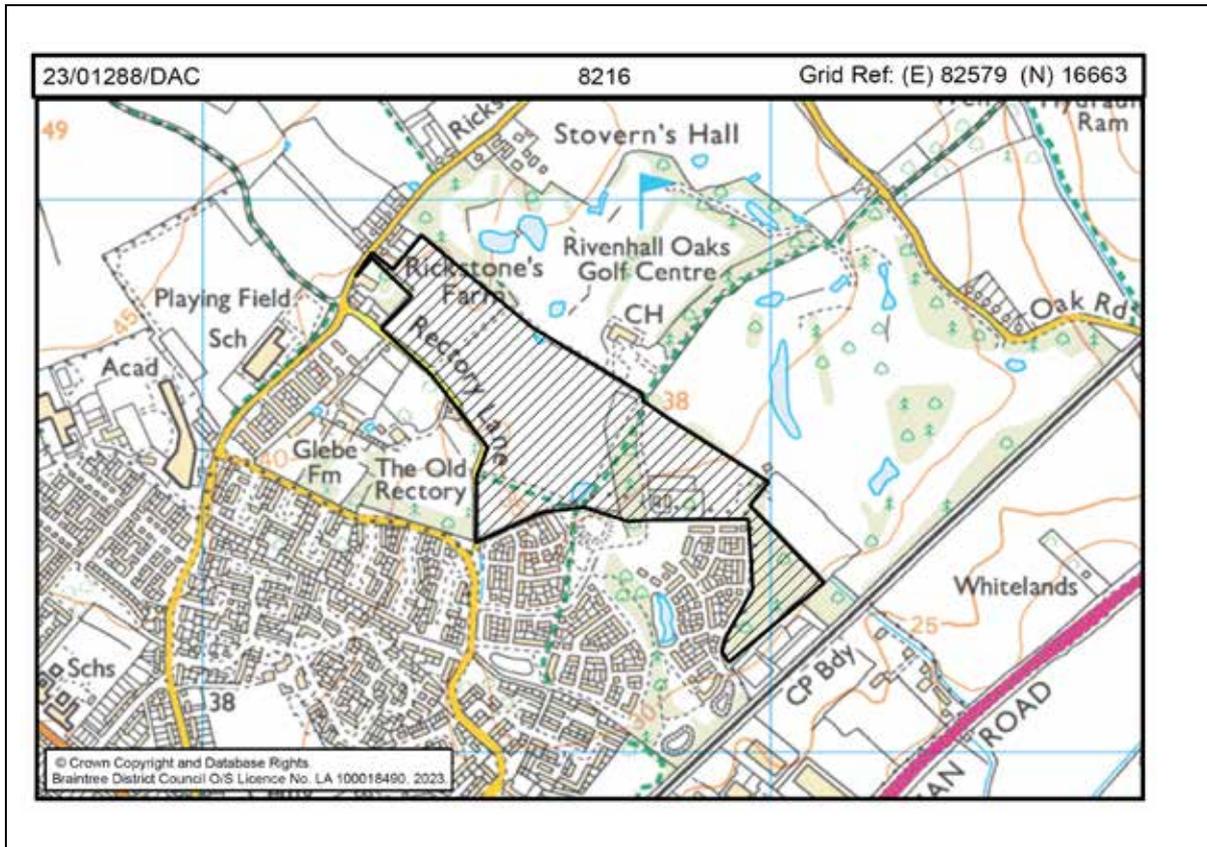
APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
85/00538/P	Erection of cattle building	Granted	28.06.85
91/00991/PFHN	Change Of Use From Agricultural Buildings To Manufacture Of Sewing Machine Table Tops & Assoc. Products	Granted	14.10.91
94/01286/AGR	Proposed agricultural building	Permission not Required	28.11.94
22/02097/FUL	Change of use of existing agricultural grazing field to a secure dog walking field.	Granted	08.11.22
22/02710/AGR	Application for prior notification of agricultural or forestry development - Erection of agricultural grain store	Withdrawn	20.10.22
22/02724/AGR	Application for prior notification of agricultural or forestry development - Erection of steel framed agricultural building for the storage of grain and farm machinery.	Prior Approval Required and Given	07.11.22

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 17th October 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	23/01288/DAC
<b>Description:</b>	Application for approval of details as reserved by condition 6 of approved application 20/02060/OUT (allowed on appeal) - Submission of Design Code
<b>Location:</b>	Phase 4, Land North East of Rectory Lane, Rivenhall
<b>Applicant:</b>	Bellway Homes Limited, Bellway House, 1 Cunard Square, Townfield Street, Chelmsford, Essex, CM1 1AQ
<b>Agent:</b>	Mr Olivier Spencer, Andrew Martin - Planning Limited, Town Mill, Mill Lane, Stebbing, Dunmow, CM6 3SN
<b>Date Valid:</b>	17th May 2023
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made: § Application GRANTED and partially discharge Condition 6
<b>Options:</b>	The Planning Committee can: a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overtturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Approved Document(s)
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Neil Jones For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2523, or by e-mail: <a href="mailto:neil.jones@braintree.gov.uk">neil.jones@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	<p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
<b>Legal Implications:</b>	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either approve the details submitted to discharge Condition 6, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications:</b>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</li> </ul>

	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 23/01288/DAC.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013-2033)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Affordable Housing Supplementary Planning Document (2006)</li> <li>§ Essex Design Guide for Mixed Use and Residential Areas (2005)</li> <li>§ Open Space Supplementary Planning Document (2009)</li> <li>§ Parking Standards – Design and Good Practice (2009)</li> <li>§ Urban Place Supplement Guidance (2007)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

## 1. EXECUTIVE SUMMARY

- 1.1 When outline planning permission was granted, Condition 6 was imposed, which required prior to the submission of the first reserved matters, that a Design Code for the development would be submitted to and approved by the Council. The aim of the Design Code was to build on the Parameter Plans and the Vision Statement that were approved as part of the outline planning permission and establish detailed design rules for the development. Condition 6 states that all reserved matters submissions will need to accord with the approved Design Code.
- 1.2 This application seeks approval of the submitted Design Code. As the approved Design Code will form the basis for the subsequent Reserved Matters applications it is considered appropriate that the Planning Committee determine the application, as the Planning Committee will ultimately be required to determine the subsequent Reserved Matters application(s) for all of the new housing, with the exception of the five self-build / custom build plots.
- 1.3 Amongst other things the Design Code establishes a street hierarchy and the design of the streets within that hierarchy, further design parameters that will determine the layout of the development parcels and arrangement of housing, the design of different character areas incorporating the use of varying architecture, design features and materials, and landscape design principles.
- 1.4 Following discussions and submission of a revised Design Code document, Officers recommend approval. The Design Code is considered to successfully identify positive attributes and characteristics from the town of Witham and has used these to help create the Code and specifically the details for the Character Areas. The Code builds on the Vision Statement and establishes clear design principles that Officers believe will ensure that the detailed layout and appearance of the development will be of a high quality.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation, as the application is deemed to be 'significant' by the Planning Development Manager.

2.2 Applications to discharge planning conditions are determined by Officers under Delegated Powers. A Design Code was not submitted with the outline planning application but is now submitted for approval pursuant to Condition 6 of the outline planning permission. The Design Code will shape the detailed design of the development and will therefore have a crucial role in determining the form of the Reserved Matters. As the Planning Committee will eventually determine subsequent Reserved Matters application(s) for all of the new housing with the exception of the five self-build / custom build plots, the Planning Development Manager considers that the Planning Committee should be able to assess and approve the Design Code.

3. POLICY CONSIDERATIONS

- See Appendix 2

4. SITE HISTORY

- See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The site is located north east of Witham, within the Parish of Rivenhall, and comprises 17.1 hectares of agricultural land. The southern end of the application site abuts the current Town Development Boundary of Witham where the site adjoins a previous Bellway development (Phase 1 & 2) which contains 385 dwellings. Phases 1 & 2 were granted permission in 2016 and are now built out and occupied. These new dwellings are accessed from an internal spine road, Evans Way, via Forest Road. Land within the application site, immediately to the north of the Phase 2 development has previously been used as a temporary construction compound. To the north-east lies the Rivenhall Oaks Golf Course. To the north, the site abuts the rear gardens of a ribbon of properties that front onto Rickstones Road, which are part of the hamlet known as Rickstones End.

5.2 Travelling west along Rickstones Road in the direction of Witham, there is a further new housing development of 58 dwellings, marketed by Bellway as the Bluebells, but also referred to in planning documents as Phase 3. Beyond this lies the education complex on Conrad Road containing Elm Hall Primary School, New Rickstones Academy and Southview School as well as the recently constructed Chatten Free School, built on part of the playing fields of the New Rickstones Academy, which is a new school for

children with Special Educational Needs (SEN). Included in the red line of the application site is a footpath link through Phase 3 from Rectory Lane to Rickstones Road and visibility splays within the highway on both sides of the proposed bus access junction onto Rickstones Road.

- 5.3 The site is relatively flat and is bordered on its north-east and western perimeter by hedges and trees. A substantial tree belt also crosses the centre of the site, located west of the existing access road to the Golf Course. To the south, the site contains an isolated triangle of woodland, with an existing area dedicated for use as allotments beyond. To the west of the site is Rectory Lane, and beyond that the Grade II listed Old Rectory. The proposals map in Section 2 of the Adopted Local Plan includes the Bluebells (Phase 3) development within the settlement development boundary. The remainder of the town development boundary runs along Forest Road.
- 5.4 An existing maintenance access to the Golf Course crosses the site in the northern portion of the site connecting the Golf Course to Rectory Lane. Two Public Rights of Way (PROW) lie within the site: PROW 105\_58 runs east from Rectory Lane to the junction of PROW 105\_59 and PROW 105\_60. PROW 105\_59 runs in north eastern direction towards the Rivenhall Oaks Golf Course whilst PROW continues south through the Phase 1 and Phase 2 development. PROW 105\_59 and 105\_60 form part of the John Ray Walk; a linear recreational route connecting Braintree with Witham. Rectory Lane is designated as a 'Protected Lane' as identified under Policy LPP69 of the Adopted Local Plan. Essex County Council have also designated Rectory Lane as a Quiet Lane. Highway Authorities can designate country lanes as 'Quiet Lanes' in rural areas, under the Transport Act 2000. Quiet Lanes are a positive way of: providing a chance for people to walk, cycle and horse ride in a safer environment; widening transport choice; and protecting the character and tranquillity of country lanes.
- 5.5 A high-pressure gas main crosses within the site, running north to south, parallel, and adjacent to Rectory Lane.

## 6. PROPOSAL

- 6.1 This application seeks approval of details submitted to the Council to discharge Condition 6 of the outline planning permission. Condition 6 states:

*'Prior to submission of the first reserved matters, a Design Code for all areas of the site, including housing development, public realm, and character areas, which demonstrates compliance with the design principles of the Rivenhall Park IV Vision Statement (submitted 22 Sept. 2021), shall be submitted to and approved in writing by the local planning authority. All reserved matters submissions shall accord with the approved site wide Design Code'.*

- 6.2 The Applicant submitted a Design Code document with the application. Following comments provided by Planning Officers and the Highway Authority the Applicant submitted a revised Design Code document and this was subject to a further round of public consultation. Some further minor revisions and clarifications were requested by Officers and a third revision of the Design Code was submitted. Due to the minor nature of these changes a further round of public consultation was not considered necessary.
- 6.3 The Section 106 Agreement secures the provision of five self-build / custom build plots within the development. The Applicant proposes that these five plots are provided in a single group within the site. The submitted Design Code does not include Code that would control the development of these five plots as the level of detail required and the need for Code for these five plots is quite different to the Code which covers the remainder of the site (up to 225 dwellings). Officers consider that providing Code for these self-build / custom build plots in a separate, more focussed document is a sensible approach that will be helpful for both prospective self-builders / custom builders and the Council. The Applicant intends to submit a separate document that will provide Code for the self-build / custom build plots. This self-build / custom build Design Code document can confirm that many of the principles established in this Code will apply – like for example the Urban Design principles about design of homes on corner turning plots – but provide further Code that is specific to these five plots.
- 6.4 As the self-build / custom build Code will only cover five plots, and as the Planning Committee would not be required under the Scheme of Delegation to determine the individual Reserved Matters applications for each of individual self-build / custom build plot, Officers consider that it will not be necessary for the Planning Committee to consider and approve the self-build / custom build Design Code in the same way as the main Design Code. As a result, it is proposed that Officers can determine the self-build / custom build Design Code application under delegated powers.
- 6.5 Condition 6 requires that the Design Code for the whole site is approved prior to the submission of the first Reserved Matters. The Applicant is aware of this requirement and that if Members are minded to approve this application this will only partially discharge Condition 6. It will only be possible to fully discharge the condition and submit a Reserved Matters application once the Council approves Design Codes for the entirety of the site.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 ECC Highways

- 7.1.1 Initial consultation (July 2023) raised the following issues:

1. Page 24: The cross-section should be amended to show a 3.5-metre-wide footway/cycleway (3.5 metres is mentioned consistently in the accompanying text).
2. Page 25: The cross-section should be amended to show the 1.5-metre-wide footway at 2 metres wide and the verge 3 metres rather than 2.5 metres wide.
3. Page 26: Para. 2.27: the following should be added to the first bullet point: hardened and adopted as highway. Also, the third bullet point should be amended to also mention no buildings including guttering, downpipes, utility boxes for example should be located immediately at the back of the service margin.
4. Page 27: The cross-section should be amended to show a minimum width of 3.7 metres (as mentioned in the accompanying text).

7.1.2 Second consultation (September 2023) raised the following issues:

1. Page 36: The cross-section should be amended to show the proposed for adoption from back of footway to back of footway/cycleway only.
2. Page 37: The Street Type E Access (Option A) cross-section should be amended to show a minimum verge width of 3 metres (to enable adoption).
3. Page 37: The Street Type E Access (Option B) cross-section should be amended to remove hedge from the 0.5 metre service margin (probably a drafting error).
4. Where a service margin is mentioned, the accompanying text should mention it will be hardened and adopted as highway. Also, that no buildings including guttering, downpipes, utility boxes for example should be located immediately at the back of the service margin.

7.1.3 The Applicant has submitted a revised version of the Design Code that addresses these issues. At the time of writing this report Officers have not received formal confirmation from the Highway Authority that they have no objection to the approval of this application. Officers will update Members and confirm the Highway Authority have no objection to the application at the Planning Committee meeting.

## 8. PARISH / TOWN COUNCIL

8.1 There is no statutory requirement for the Local Planning Authority to consult Town and Parish Councils on the discharge of planning conditions, however in this instance as the content of the Design Code will establish the design principles that the Reserved Matters will follow, the Planning Development Manager considered that because the Design Code will determine the details in the Reserved Matters applications it was appropriate for the Council to consult the Parish Council, and because the site is immediately adjacent to the town of Witham, Witham Town Council.

## 8.2 Rivenhall Parish Council

- 8.2.1 Initial consultation (July 2023) – Commented as follows: Express grave concern regarding the possible diversion of local Public Rights of Way as there are still issues remaining from the Phase 2 development. Also, there are issues relating to the possible changes regarding the bus access and exit via Rickstones Road at a very dangerous series of bends in a busy road with limited visibility for drivers from both directions.
- 8.2.2 Second consultation (September 2023) – Commented as follows: The Parish Council have been consulted on the revised Design Code. The Clerk requested additional time in order that the Parish Council could consider at their next meeting. At the time of writing this report their comments have not been received. Officers will update Members at the Planning Committee meeting of any comments that are received.

## 8.3 Witham Town Council

- 8.3.1 Initial consultation (July 2023) – Commented as follows: Members were able to consider the salient points and were pleased to note that key outward facing frontages would aid wayfinding and parking courts would only serve a limited number of dwellings. They noted the different widths of roadways, layout to shared footpaths and cycleways for the main route and that short stretches of on-street parking for visitors would be landscaped. It was also noted that the bus egress from the estate had not been approved and a bus loop might be required. They were pleased to note that garages would be of sufficient size to allow for parking and storage. Comment was made about potential ownership of the sports field and pavilion. Members considered that the existing development at Rivenhall Park showed good design and layout and that the prepared code would ensure that this continued into the last phase.
- 8.3.2 Second consultation (September 2023) – Commented as follows: The Town Council did not feel there was any changes that warranted representation from them.

## 9. REPRESENTATIONS

- 9.1 As stated previously there is no statutory requirement for local planning authorities to publicise applications to discharge planning conditions, however in this instance because the content of the Design Code will establish the appearance and form of the subsequent Reserved Matters the Planning Development Manager considered that it was appropriate for the Council to publicise the application through the display of site notices at the site and neighbour notification letters to residents adjoining the site.
- 9.2 No representations have been received from interested parties in response to this consultation.

## 10. PRINCIPLE OF DEVELOPMENT

- 10.1 Outline planning permission for the development was granted at appeal, and the decision establishes the principle of development for this site for up-to 230 dwellings. Members therefore cannot reconsider the principle of development and can only consider whether the details contained within the Design Code are acceptable so that Condition 6 can be discharged.
- 10.2 The outline planning permission was granted with all matters reserved, so before development can proceed the Applicant will need to obtain approval for the Reserved Matters (appearance, means of access, landscaping, layout, and scale). The details within the Reserved Matters will need to be in accordance with the Parameter Plans that were approved as part of the outline planning permission. These plans established parameters for Land Use, Green Infrastructure, Pedestrian Access & Movement; Vehicular Access & Movement; and Storey Heights.
- 10.3 As part of the information supporting the outline planning application in 2020 the Applicant committed to delivering a high-quality development and a Vision Statement was submitted with the application to demonstrate this commitment. The Statement refers to Bellway's commitment to 'create an even higher quality development' on this phase of the development and to raising the bar.
- 10.4 To help to secure the design principles that were set out in the Vision Statement, Condition 6 requires a Design Code which demonstrates compliance with the Vision Statement.

## 11. DESIGN CODE ASSESSMENT

- 11.1 The NPPF defines a Design Code as being 'A set of illustrated design requirements that provide specific, detailed parameters for the physical development of a site or area. The graphic and written components of the code should build upon a design vision, such as a masterplan or other design and development framework for a site or area'.
- 11.2 The Design Code follows the approach advocated in the approved Rivenhall Park Phase IV Vision Statement. The Vision Statement established that this new development would draw context and inspiration from positive examples of local character and building design in the town. The Design Code provides a more detailed assessment of each area and positive aspects and characteristics which can be used to inform the Design Code and in particular develop a number of distinct Character Areas within the development. The areas of the town that were analysed were: Chipping Hill; Guithavon Street; The Avenue; and Rectory Lane.
- 11.3 The structure of the Design Code document was accepted by Officers at an early stage in the pre-application discussions. The Code establishes five components that cumulatively will provide the placemaking principles for the development. The five components are General Urban Design

Principles; Character Area Guidance; Street Typologies; Building Form Guidance; and Public Realm. These components are summarised below.

### **General Urban Design Principles**

- 11.4 The Code establishes key urban design principles which will be applied across the built areas. The principles recognise that there are a number of elements where the built form will be particularly important and where the appearance and layout will need to be particularly well considered. These include the key street frontages and landmark buildings. The Urban Design Principles also establish key parameters for the blocks / parcels of development. These principles are very important in determining the development layout and the number of dwellings that can be accommodated within the site.
- 11.5 These principles are applied to the Urban Design Principles Plan within the Code which identifies where the important frontages and landmark buildings are and identifies the broad location of where the development blocks / parcels will be located.

### **Character Area Guidance**

- 11.6 In addition to the sections of the document that establish site wide Code it is also desirable to create several distinct character areas. The use of character areas provides a means of varying the character and appearance of the development and to allow different parts of the scheme to reflect the more immediate surroundings and context of each character area. Character areas also aid legibility through the creation of a varied and diverse townscape. It is proposed that five distinct Character Areas will be coded.
- 11.7 The use of Character Areas was referenced within the Rivenhall Phase IV Vision Document, but following discussions with Officers the details and arrangement of the Character Areas has been refined.

The five-character areas are:

- Internal Spaces
- Country Edge
- The Avenue
- Parkland
- Recreation Ground

- 11.8 Each character area has been developed with reference to one of the area character analyses at the start of the Design Code. The Internal Streets character area draws inspiration from the study of Guithavon Street; the character of the Country Edge is inspired by the Chipping Hill area; The Avenue character area is inspired by some of the characteristics of The Avenue; the Parkland area also draws on the Chipping Hill study area; and the Recreation Ground has characteristics drawn from Rectory Lane.

- 11.9 The character areas within this new development are not intended to replicate the appearance or layout of the study areas but will instead feature some of the strong, positive characteristics which are identified in the character analysis at the start of the Design Code.
- 11.10 The Code for each Character Area specifies the building typology, height, enclosure, building detail, building material and other key elements that shape the overall appearance of the identified character areas. The Code for each of the proposed character areas is set out across six pages in the document and includes the following elements:
- Key characteristics.
  - A 3D visualisation showing a typical arrangement of housing.
  - Typical street sections.
  - An illustrative section of the streetscene, annotated to identify the features that have been drawn through from the character area analysis.
  - Building Details which set out the palette of materials and architectural details that will be used in the building designs.

### **Street Typologies**

- 11.11 As part of the placemaking for this new neighbourhood the Council want to see a clear street hierarchy that will help create a legible and permeable layout as well as an attractive and interesting place to lie.
- 11.12 The Design Code establishes four different street types. These will range from The Avenue which is the widest and most formal street type, down in scale to the Access Road and Minor Access street type and finally the Shared Private Drive which is the least formal and smallest scale of the street types. The code sets out the key characteristics of the different streets which vary in width / scale and establish through section drawings and text how vehicle parking and street trees will be accommodated and the surface materials that will be used.

### **Building Form Guidance**

- 11.13 To help develop distinct character, that will aid legibility and as well as providing visual interest, the code establishes that the scale and proportion of the buildings, the external materials and building details will vary in different areas of the development.
- 11.14 To promote high quality design a range of features can be incorporated in the building designs which include bay windows, window and door reveals, brick detailing, fenestration patterns and minimum eaves depths are specified. In addition to external design details, internally accommodation will be arranged to provide active frontages.

## **Public Realm**

- 11.15 The Landscape section of the Code sets out the design principles and parameter for the landscaped elements of the development. This includes the landscaping within the character areas as well as the areas of public open space.
- 11.16 The Applicant has engaged positively with Officers to develop this Design Code and those discussions have continued post-submission of this application.
- 11.17 Following those discussions a revised Design Code was submitted which contained a more thorough assessment of the study areas in the town and a clearer demonstration of how their analysis has informed the development of the Design Code for this new development. The revised document also sought to provide more details to establish Code that will clearly establish the detailed form of the development.
- 11.18 Having reviewed the revised Design Code, Planning Officers and the Highway Authority requested some further minor amendments to the document to improve clarity. These changes were minor in nature and there was no need to publicise the second revision of the Design Code.
- 11.19 Officers consider that the key components of the Design Code - the General Urban Design Principles; Character Area Guidance; Street Typologies; Building Form Guidance; and Public Realm – reference the Council's appropriate design standards and that they are covered in a manner with sufficient detail that the Code establishes a high-quality threshold that the Reserved Matters will need to meet.

## **12. CONCLUSION**

- 12.1 The Vision Statement which formed part of the outline planning permission was forthright in its commitment to achieving high quality design, acknowledging that earlier phases of development are of a standard which needs to be improved upon today to meet the aspirations of the Council, and the renewed emphasis that the Government has sought to establish through the NPPF on good design and creating beautiful places.
- 12.2 Officers are satisfied that the Design Code successfully identifies some of the positive attributes and characteristics of some other areas of Witham and has used these to help create a set of new Character Areas that will form this development. As was intended, the Code builds on the Vision Statement that was produced in support of the outline planning application and establishes clear design principles that will ensure that the detailed layout and appearance of the development will be of a high quality.
- 12.3 When this application was originally submitted the Applicant sought approval for the details submitted in respect of Condition 6 of the outline planning permission (Application Reference 20/02060/OUT) which was

granted permission at appeal. After this application was submitted, Members at the Planning Committee meeting held on 26<sup>th</sup> September 2023 resolved to grant a Section 73 application (Application Reference 23/01901/VAR) to vary a condition on the original outline planning permission (Condition 27 regarding the relocation of 2no. Pine Trees), subject to the completion of a Legal Agreement to link the original S106 Agreement to the new planning permission. Approval of the variation application will result in a new planning permission being granted. However, this new permission has not been issued yet as the Legal Agreement has not been completed.

- 12.4 As a matter of course, when granting a variation, Officers would update the list of conditions on the Decision Notice to reflect any conditions which have been discharged, by amending these to compliance conditions. As this discharge of condition application has been submitted pursuant to the original outline planning permission, if Members are minded to approve this application and partially discharge Condition 6, Officers also seek approval from the Planning Committee to update the wording of Condition 6 on the variation application (Application Reference 23/01901/VAR) to require compliance with the Design Code approved under this application, and a Design Code for the self-build and custom build plots when this is approved.

13. RECOMMENDATION

- 13.1 It is RECOMMENDED that the following decision be made:  
Application GRANTED confirming that the details submitted partially discharge Condition 6 of the outline planning permission, and to subsequently update the wording of Condition 6 of Application Reference 23/01901/VAR, to require compliance with the approved Design Code.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND  
INFORMATIVE(S)

Approved Plan(s) & Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Design Code	P22-3095_04i	

Condition(s) & Reason(s)

The details contained within the Design Code (P22-3095\_04i) dated October 2023) are approved for all parts of the site, with the exception of the Self-Build / Custom Build Plots. A Design Code will need to be produced to specifically Code the Self-Build / Custom Build plots.

The approved document therefore partially discharges Condition 6, but the Council will be unable to confirm compliance with Condition 6 until a Design Code for the Self-Build / Custom Build plots is approved.

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP48	An Inclusive Environment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP63	Natural Environment and Green Infrastructure
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP69	Protected Lanes
LPP76	Sustainable Urban Drainage Systems
LPP78	Infrastructure Delivery and Impact Mitigation

APPENDIX 3:

SITE HISTORY

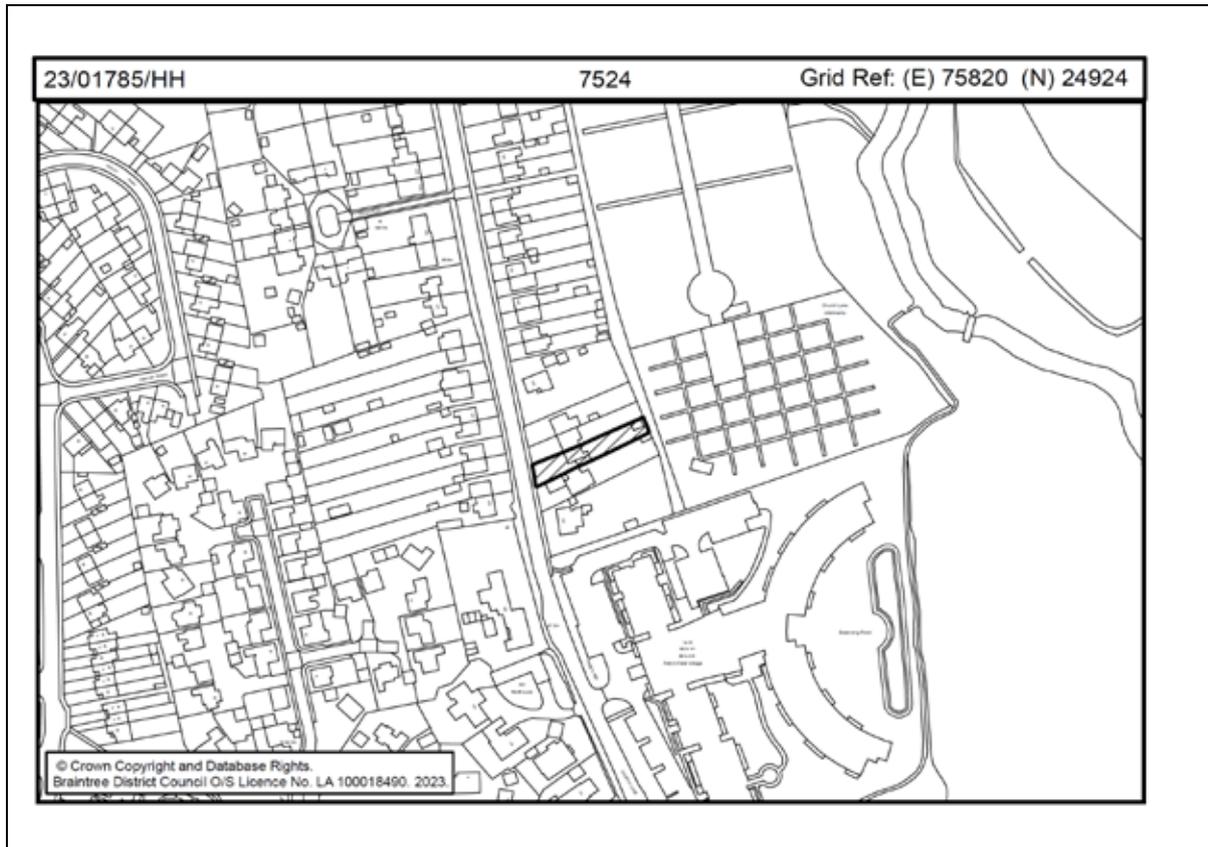
<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
22/00063/REF	Outline application with all matters reserved for up to 230 dwellings including affordable homes; public open space including sports pitches and facilities, neighbourhood equipped area for play, parkland and alternative natural greenspace, vehicular access via Forest Road and Evans way, a bus, cycle and pedestrian connection to Rickstones road, sustainable drainage systems, landscaping and all associated infrastructure and development.	Appeal Allowed	05.01.23
20/02060/OUT	Outline application with all matters reserved for up to 230 dwellings including affordable homes; public open space including sports pitches and facilities, neighbourhood equipped area for play, parkland and alternative natural greenspace, vehicular access via Forest Road and Evans way, a bus, cycle and pedestrian connection to Rickstones road, sustainable drainage systems, landscaping and all associated infrastructure and development.	Refused	18.03.22
21/03473/FUL	Retention of temporary (for a period of 6 months) construction site offices, storage containers and	Granted	14.01.22

	skips on the temporary contractor car park and a revised pedestrian bridge leading to Rectory Lane, to serve the consented development on the land south of Rickstones Road (in relation to planning permission ref. 18/00947/OUT).		
23/01555/FUL	Enabling infrastructure for the NE Witham Phase 4 development (approved under 20/02060/OUT), including: a priority junction and revised site access off Rickstones Road; section of spine road restricted to bus, taxi and motorcycle use only; sustainable drainage system; landscaping; and, all associated development.	Pending Decision	
23/01901/VAR	Variation of Condition 27 (Relocation of 2 No. Pine Trees) of approved application 20/02060/OUT (allowed at appeal) granted 05.01.2023 Outline application with all matters reserved for up to 230 dwellings including affordable homes; public open space including sports pitches and facilities, neighbourhood equipped area for play, parkland and alternative natural greenspace, vehicular access via Forest Road and Evans way, a bus, cycle and pedestrian connection to Rickstones road, sustainable drainage systems, landscaping and all associated infrastructure and	Pending Decision	

	<p>development. Variation would allow the condition to read 'Concurrent with the submission of reserved matters for layout or landscaping under Condition 1 of this decision, a plan shall be submitted identifying the location, type and size of four new trees to be planted on the site to compensate for the removal of the two Pine trees identified as T93 &amp; T94 in 'The Proposed Tree Management Location Details Based on Outline Plan' (SES, 24 Nov 2021). The plan shall include details of a five-year aftercare package for these new trees. The plan shall subsequently only be implemented in accordance with the approved details.'</p>		
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<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 17th October 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	23/01785/HH
<b>Description:</b>	Single storey rear extension and installation of decking
<b>Location:</b>	114 Church Lane, Braintree, Essex
<b>Applicant:</b>	Mrs Sarah Sherry-Martin, 114 Church Lane, Braintree, Essex, CM7 5SA
<b>Agent:</b>	Mr Ian Matthews, 6 Millers Close, Bocking, Braintree, Essex, CM7 5LN
<b>Date Valid:</b>	10th July 2023
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Richelle McDonagh For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2536, or by e-mail: <a href="mailto:richelle.mcdonagh@braintree.gov.uk">richelle.mcdonagh@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	<p>The application was subject to the statutory application fee paid by the applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
<b>Legal Implications:</b>	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications</b>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</li> </ul>

	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council's Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 23/01785/HH.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013-2033)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD's) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application site relates to 114 Church Lane, a two-storey, semi-detached dwellinghouse in Braintree.
- 1.2 The application site is located within the Braintree development boundary, as defined within the Adopted Local Plan.
- 1.3 Planning permission is sought for the erection of a single storey rear extension and the installation of decking.
- 1.4 The proposed development is considered to be subordinate to the host dwelling, and its appearance would be compatible with the character of the property and its surroundings.
- 1.5 The proposed single storey rear extension at 114 Church Lane would cause some loss of light and overshadowing during the morning and afternoon to the adjoining property at 116 Church Lane, however the extent of this would not be considered to be detrimental to neighbouring residential amenity.
- 1.6 Taking these factors into consideration, it is recommended that the application is approved and planning permission granted for the proposal.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the Applicant is an employee of Braintree District Council.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site comprises a two-storey, semi-detached dwellinghouse on the east side of Church Lane. The application site is located within the Braintree development boundary.

5.2 The application site shares a boundary with its attached neighbour, 116 Church Lane to the north, and with 112 Church Lane to the south. The rear of the site overlooks Church Lane allotments.

5.3 114 Church Lane ("*the host dwelling*") is set back from the highway and benefits from a generous driveway to the front of the dwellinghouse. The application site is on sloping ground, with the natural ground level declining towards the rear of the plot.

5.4 The host dwelling benefits from an existing single storey lean-to extension which wraps around the southeastern corner of the dwellinghouse. The existing lean-to structure comprises a garage to the side of the host dwelling, and a conservatory to the rear. The existing conservatory has timber-framed fenestration and sits upon a brick plinth. Both the garage and the conservatory appear dilapidated.

5.5 The host dwelling is not a listed building, nor is it within the curtilage of a listed building.

5.6 The application site does not form part of a Conservation Area.

6. PROPOSAL

6.1 The planning application seeks permission for the erection of a single storey rear extension at the host dwelling. The existing lean-to conservatory and garage structure would be demolished to facilitate the proposed development.

- 6.2 The proposed single storey rear extension would have a depth of 4.0m, a width of 5.6m and would have a flat roof with a height of 3.9m, when measured from the natural ground level at the rear of the dwellinghouse.
- 6.3 The proposed rear extension would be constructed with materials to match the existing dwellinghouse, comprising a brick plinth and render to the upper part of the external walls.
- 6.4 The roof of the proposed rear extension would be covered with felt and would feature two roof lanterns which would project 0.4m above the upper surface of the flat roof.
- 6.5 The proposed extension would have a window and a set of patio doors on the rear elevation. No windows are proposed to either of the side elevations.
- 6.6 The proposal includes timber decking that would extend 2.0m beyond the rear wall of the proposed extension. The decked platform would have a maximum height of 0.7m above the natural ground level and would incorporate a timber balustrade surround and steps to facilitate access down to the rear garden level.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Consultee

7.1.1 N/A

## 8. PARISH / TOWN COUNCIL

### 8.1 Parish/Town Council

8.1.1 N/A

## 9. REPRESENTATIONS

9.1 A site notice was displayed to the front of the application site for a period of 21 days, and immediate neighbours were notified by letter. No representations have been received in relation to this planning application.

## 10. PRINCIPLE OF DEVELOPMENT

10.1 The application site is located within the Braintree development boundary, where the alteration or extension of a dwellinghouse is acceptable in principle, as established in Policies LPP1 and LPP36 of the Adopted Local Plan, subject to satisfying criteria pertaining to amenity, design, environmental, highway and other material considerations.

10.2 As such, the proposed development is acceptable in principle, subject to the relevant policy considerations.

11. SITE ASSESSMENT
- 11.1 Design, Appearance and Impact upon the Character and Appearance of the Area
- 11.1.1 Paragraph 126 of the National Planning Policy Framework (NPPF) communicates that good design is a core principle of sustainable development, and that the planning process should achieve high quality, beautiful and sustainable buildings, and places.
- 11.1.2 Paragraph 134 of the NPPF, explicitly states that poorly designed development should be refused.
- 11.1.3 Policy SP7 of the Adopted Local Plan states that all new development should respond positively to the local context and character of its setting, preserving, and enhancing the quality of existing places.
- 11.1.4 Policy LPP52 of the Adopted Local Plan requires the design and layout of development to reflect or enhance local distinctiveness and to be in harmony with the character and appearance of the surrounding area in respect of form, scale, and impact on building line. This policy also seeks to ensure that development is of a high architectural quality and uses appropriate materials and details that complement the local architectural character.
- 11.1.5 Policy LPP36 of the Adopted Local Plan permits residential alterations, extensions, and outbuildings, subject to an appropriate use of scale, massing, siting, bulk, form, height, and materials. Developments should be compatible with the original dwelling and regard should be given to the footprint of proposed developments in relation to the existing dwellinghouse and plot boundaries. The Council will also consider the cumulative impact of extensions and outbuildings on the original character of the property and its surroundings. There should be no detrimental impact to the amenity of adjoining residential properties, nor on the identity of the street scene and/or the appearance of the countryside.
- 11.1.6 The proposed single storey rear extension would extend 4.0m beyond the original rear wall of the host dwelling and would have a width of 5.6m. The proposed extension would span the width of the rear elevation, leaving a separation distance of 0.3m between the extension and the boundary with 116 Church Lane. The proposed extension would not extend beyond the flank wall of the host dwelling which faces 112 Church Lane.
- 11.1.7 The proposed extension would have a flat roof, with a height of 3.9m. As such, the proposed extension would have a simple form that would be compatible with the original dwellinghouse.
- 11.1.8 It is considered that the proposed extension would be subordinate to the original dwellinghouse in terms of its bulk, height, and position.

- 11.1.9 The proposed extension would not constitute overdevelopment of the plot, and the resultant rear garden would have an area of 175m<sup>2</sup>. The Essex Design Guide (2005) recommends a minimum garden size of 100m<sup>2</sup> for dwellings with three or more bedrooms, therefore it is considered that the proposed development would retain an adequately sized private amenity space for current and future occupiers of the host dwelling.
- 11.1.10 The proposed extension would be constructed and finished with materials to match the existing dwellinghouse, incorporating a plinth constructed with facing brickwork and rendered external walls above the plinth. It is considered that the proposed materials would be compatible with the host dwelling.
- 11.1.11 The proposed single storey rear extension would have uPVC framed fenestration on the rear elevation. Two roof lanterns would allow additional light into the extension. It is considered that the proposed elevational composition would be compatible with the host dwelling in terms of alignment and materials.
- 11.1.12 The proposed decking would not be extensive and would cover a reasonable area of the garden as necessary to provide a sitting out area immediately rear of the proposed rear extension.
- 11.1.13 The proposed single storey rear extension, together with the proposed decking and stepped access is well-designed, and it is considered that the appearance of the proposed development would not have an unacceptable impact on the character of the property or its surroundings.
- 11.1.14 Officers consider that the proposed development would comply with the NPPF and Policies SP7, LPP36 and LPP52 of the Adopted Local Plan in respect of its design and appearance.

## 11.2 Impact upon Neighbouring Residential Amenity

- 11.2.1 Policies LPP36 and LPP52 of the Adopted Local Plan states that development should not unacceptably impact the amenity of neighbouring properties, in terms of privacy, overshadowing, loss of light and overbearing impact.
- 11.2.2 The proposed single storey rear extension would be well-scaled and sited appropriately.
- 11.2.3 However, Officers raised concerns regarding the impact of the proposed extension on the amenity of 116 Church Lane, its attached neighbour.
- 11.2.4 116 Church Lane benefits from a single storey rear extension with a flat roof, which is set 2.5m away from the boundary with the application site. The position of the rear extension at 116 Church Lane is such that it extends across only one half of the rear elevation.

- 11.2.5 The single storey rear extension at 116 Church Lane projects approximately 1.7m from the rear wall of the dwellinghouse and has doors on its rear elevation, and a window on its side elevation which faces the application site. There is a door on the original rear elevation of 116 Church Lane, positioned between the rear extension and the application site.
- 11.2.6 Officers consider that the height, depth, and position of the proposed single storey rear extension could introduce a sense of enclosure for the occupants of 116 Church Lane. As a result of the proposed development, the neighbouring rear door would be set back between two single storey projections.
- 11.2.7 Furthermore, it is considered that the proposed single storey rear extension would reduce the amount of light entering the rear of 116 Church Lane. The properties have northeast facing rear gardens, with the application site positioned to the south of 116 Church Lane. Therefore, it is considered that the proposed single storey rear extension would cause overshadowing of 116 Church Lane to some extent.
- 11.2.8 It has been ascertained that the rear extension at 116 Church Lane is part of an enlarged kitchen diner. As such, the rear door that would be set back between the extensions would not be the sole source of light into the kitchen diner, as the rear extension features glazing on both its side and rear elevations.
- 11.2.9 Officers consider that the depth of the proposed single storey rear extension is reasonable and would not be significantly greater than what could be achieved under permitted development rights. It is further considered that the height of the proposed extension would be comparable with that of the rear extension at 116 Church Lane, and its flat roof would not be unduly obtrusive. The proposed roof lanterns would not unacceptably impact upon the amenity of 116 Church Lane.
- 11.2.10 As such, Officers deem that whilst the proposed single storey rear extension at 114 Church Lane would cause in some loss of light and overshadowing during the morning and afternoon, the extent of this would not be detrimental to the amenity of occupants residing at 116 Church Lane. It is considered that the positions of windows and doors at 116 Church Lane would maximise the amount of light able to enter the kitchen diner, and it is likely that this design was influenced by the disadvantageous orientation of the plot.
- 11.2.11 It is also considered that the proposed extension would not create an undue sense of enclosure for the occupants of 116 Church Lane. The positions of doors and windows at the rear of the neighbouring property, combined with the width of the plot and the general sense of spaciousness created by the generous garden size, would contribute to the retention of sufficient residential amenity for the occupants of 116 Church Lane.

- 11.2.12 The proposed single storey rear extension would not have any windows along either of its side elevations, and therefore the proposed development would not result in a loss of privacy for 116 Church Lane, nor 112 Church Lane. It is further considered that the height of the proposed decking would be appropriate and limited to what is necessary to facilitate access from the proposed rear extension and would not give rise to any overlooking of neighbouring properties.
- 11.2.13 112 Church Lane is a detached dwellinghouse, set forward of the host dwelling, and benefits from a conservatory to its rear. The proposed single storey rear extension would be positioned 2.8m away from the boundary with 112 Church Lane and the boundary fencing between the application site and 112 Church Lane is of a considerable height. As such, it is considered that the proposed development would be unlikely to have an unacceptable impact on the amenity of 112 Church Lane in terms of loss of light, overshadowing, loss of privacy or overbearing.
- 11.3.14 There are no residential dwellings to the rear of the application site.
- 11.3.15 Officers consider that the proposed development would comply with Policies LPP36 and LPP52 in respect of neighbouring residential amenity.
- 11.3 Highway Considerations
- 11.3.1 Policy LPP43 of the Adopted Local Plan states that development will be required to comply with Essex Vehicle Parking Standards.
- 11.3.2 The adopted Parking Standards (2009) requires dwellinghouses with two or more bedrooms to provide parking spaces for a minimum of two vehicles per dwelling.
- 11.3.3 The application site benefits from a large driveway, capable of accommodation at least three cars.
- 11.3.4 The existing garage is not currently used for parking, and its internal dimensions are below the minimum requirements stipulated by the Essex Parking Standards (2009).
- 11.3.5 A residential garage suitable for car parking would need to measure a minimum of 7.0m by 3.0m internally. The garage at the application site measures 4.8m by 2.2m internally and is therefore insufficiently sized for car parking.
- 11.3.6 As such, the demolition of the existing garage would not constitute the loss of a viable parking space at the application site.
- 11.3.7 Furthermore, the proposed extension would be sited at the rear of the host dwelling, and therefore the proposal would not impact upon current parking arrangements.

11.3.8 Officers consider that the proposed development would comply with Policy LPP43 of the Adopted Local Plan and the Essex Parking Standards (2009).

12. CONCLUSION

12.1.1 Officers consider that the proposed single storey rear extension and decking would be compatible with the host dwelling in terms of design, scale, and layout. The proposed development would not have a detrimental impact upon the amenity of neighbouring dwellings, and the scheme raises no highway related issues. It is considered that the proposed development would be acceptable and compliant with the relevant planning policies, and it is recommended that the application is approved.

13. RECOMMENDATION

13.1 It is RECOMMENDED that the following decision be made:  
Application GRANTED in accordance with the Approved Plans and Documents, and subject to the Condition(s) & Reason(s), and Informative(s) outlined within APPENDIX 1.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

### APPROVED PLAN(S) & DOCUMENT(S) / CONDITION(S) & REASON(S) AND INFORMATIVE(S)

#### Approved Plan(s) & Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Location/Block Plan	503 (S3)	N/A
Proposed Elevations and Floor Plans	503 (S2)	N/A
Proposed Elevations and Floor Plans	503 (S3)	N/A

#### Condition(s) & Reason(s)

##### Condition 1

The development hereby permitted shall commence 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 (as amended).

##### Condition 2

The development hereby permitted shall only be implemented in accordance with the approved plan(s) / document(s) listed above.

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

##### Condition 3

The external materials and finishes shall be as indicated on the approved plan(s) and permanently retained as such.

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

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and has granted planning permission in accordance with the presumption in favour of sustainable development, as set out in the National Planning Policy Framework.

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP36	Residential Alterations, Extensions and Outbuildings
LPP43	Parking Provision
LPP52	Layout and Design of Development

#### Other Material Considerations

Essex Design Guide (2005)  
Essex Parking Standards (2009)

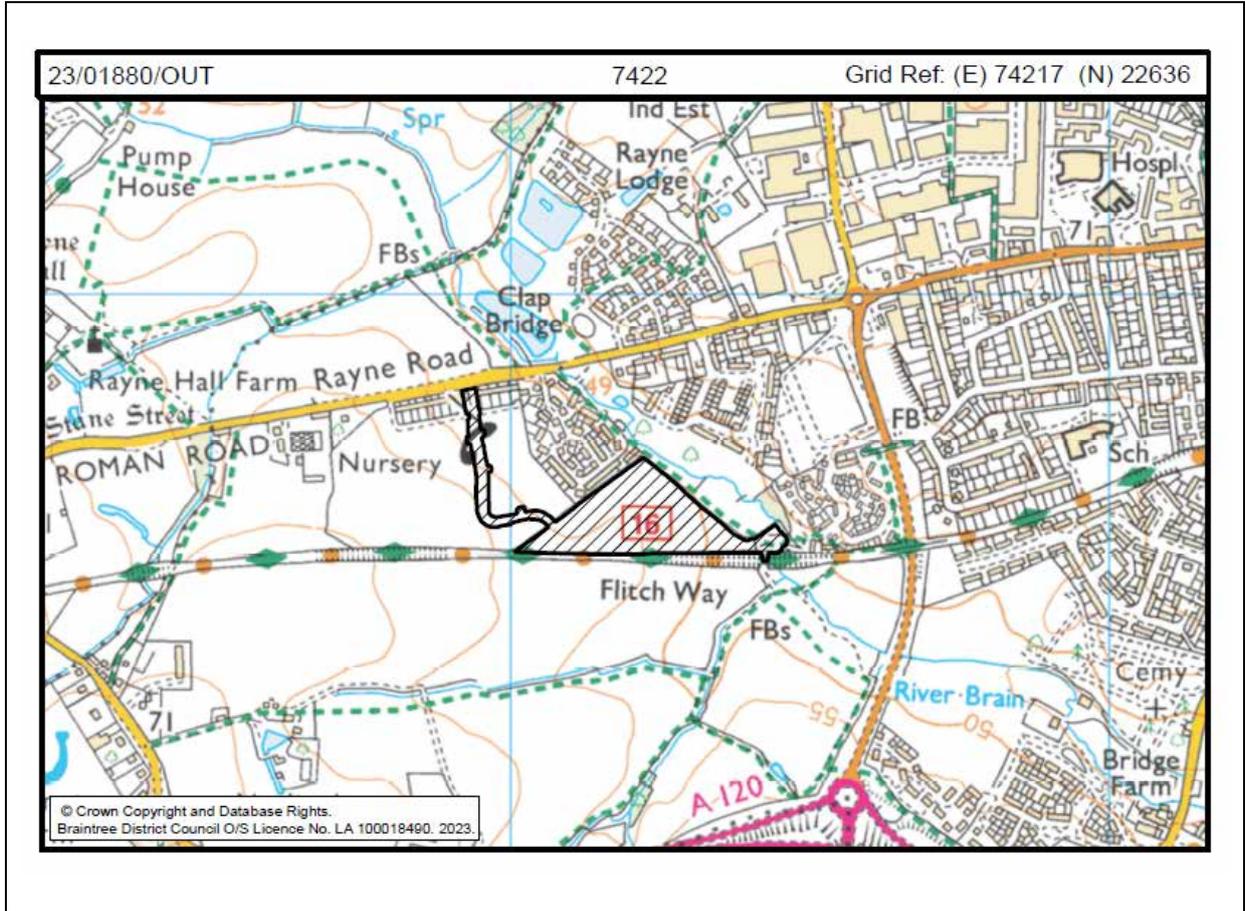
APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
N/A			

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 17th October 2023	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	23/01880/OUT
<b>Description:</b>	Outline application with all matters reserved except access, for the erection of 74 affordable residential dwellings.
<b>Location:</b>	Land South of Springfields, Braintree
<b>Applicant:</b>	First Oak Partnership Ltd, C/o Agent
<b>Agent:</b>	Mr Rory Baker, Frazer Halls Associates, Unit A3, East Gores Farm, Salmons Lane, Coggeshall, CO6 1RZ
<b>Date Valid:</b>	2nd August 2023
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made: § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can: a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Reasons for Refusal Submitted Plans / Documents
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
	<b>Appendix 4:</b> 'Gilda Terrace' Appeal Decision
	<b>Appendix 5:</b> 'Brook Green' Appeal Decision
<b>Case Officer:</b>	Melanie Corbishley For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2527, or by e-mail: <a href="mailto:melanie.corbishley@braintree.gov.uk">melanie.corbishley@braintree.gov.uk</a>

**Application Site Location:**



<b>Purpose of the Report:</b>	The Committee Report sets out the assessment and recommendation of the abovementioned application to the Council's Planning Committee. The report sets out all of the material planning considerations and the relevant national and local planning policies.
<b>Financial Implications:</b>	<p>The application was subject to the statutory application fee paid by the Applicant for the determination of the application.</p> <p>There are no direct financial implications arising out of the decision, notwithstanding any costs that the Council may be required to pay from any legal proceedings. Financial implications may arise should the decision be subject to a planning appeal or challenged via the High Court.</p>
<b>Legal Implications:</b>	<p>If Members are minded to overturn the recommendation, the Planning Committee must give reasons for the decision.</p> <p>Following the decision of the Planning Committee, a formal decision notice will be issued which will either set out the relevant Conditions &amp; Reasons and any Informatives, or the Reasons for Refusal if applicable.</p> <p>All relevant policies are set out within the report, within Appendix 2.</p>
<b>Other Implications:</b>	The application has been subject to public consultation and consultation with relevant statutory and non-statutory consultees. All responses received in response to this consultation are set out within the body of this Committee Report.
<b>Equality and Diversity Implications</b>	<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <ul style="list-style-type: none"> <li>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</li> <li>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</li> <li>c) Foster good relations between people who share a</li> </ul>

	<p>protected characteristic and those who do not including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council’s Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 23/01880/OUT.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2013-2033)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD’s) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council’s website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

## 1. EXECUTIVE SUMMARY

- 1.1 The application site consists of 3.6ha of land which is located to the west of the town of Braintree and to the east of the village of Rayne. The site is a triangular parcel of agricultural land and during a recent visit to the site it was observed to be covered in scrubby grass.
- 1.2 To the north west of the site are the rear gardens of properties in a residential estate known as Springfields; and an undeveloped piece of land to the rear of Gilda Terrace that is subject of an outline planning permission for 120 residential units which was granted permission at appeal (Application Reference 18/01065/OUT). Officers are currently considering two reserved matters applications for that site (Application References 22/03402/REM and 23/00191/REM refer). To the south of the site is the Flich Way Country Park and to the north east of the site is a public right of way (68\_108); beyond this is the River Brain and land allocated as 'Informal Recreation' in the Local Plan. A small portion of the application site, the eastern corner, lies within Flood Zone 3.
- 1.3 The application seeks outline planning permission to erect 74 affordable dwellings on the site. All matters are reserved except for access which is shown to be from Rayne Road, via the rear of Gilda Terrace development, allowed on appeal.
- 1.4 The proposed development is located outside of any settlement boundary. In such locations, only proposals that are compatible with and appropriate to the countryside would be permitted. The proposal is not one of those forms of development and therefore represents an encroachment into the countryside and an unacceptable form of urbanisation to the detriment of local landscape character.
- 1.5 The Applicant has not demonstrated that they can satisfactorily accommodate 74 dwellings on the application site. The NPPF requires a good standard of amenity for all existing and future occupants of land and buildings. Policy LPP52 of the Adopted Local Plan seeks to ensure that there is no unacceptable impact on the amenity of nearby properties including, privacy, overshadowing, loss of light and overbearing impact. The indicative proposals indicate that the proposal would represent an overdevelopment of the site and would be harmful to existing residents in Springfields by reason of the fact that the indicative masterplan indicates that the properties which would back onto the properties in Springfields would have back to back distance of approximately 22m and garden depths of less than 15m which falls below adopted standards.
- 1.6 The Applicant has not demonstrated the proposal would be acceptable in terms of highway safety and efficiency. Specifically, the curved design of the continuation of the spine road from the adjacent site at the western side of the proposal site would result in poor forward visibility for vehicles entering and exiting it.

- 1.7 When considering the planning balance, Officers have concluded that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, it is recommended that planning permission is refused for the proposed development.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

2.1 This application is being reported to Planning Committee in accordance with Part A of the Council's Scheme of Delegation as the application is categorised as a Major planning application.

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application submission states that the application site consists of 3.6ha of land which is located to the west of the town of Braintree and to the east of the village of Rayne. The site is described as a triangular parcel of agricultural land. During a recent visit to the site it was observed to be covered in scrubby grass and largely serves as a habitat for rabbits and informal dog walking/recreation. The site does not currently have a vehicular access.

5.2 To the north west of the site are the rear gardens of properties in the residential estate known as Springfields. There are also three protected trees close to the shared boundary. To the north west of the site is an undeveloped piece of land to the rear of Gilda Terrace that is subject of an outline planning permission for 120 residential units which was granted permission at appeal (Application Reference 18/01065/OUT). Officers are currently considering two reserved matters applications for the site (Application References 22/03402/REM and 23/00191/REM refer).

5.3 To the south of the site is the Flich Way Country Park and the southern boundary of the application site stops short of the former railway line, with the plans showing a corridor varying in depth between 5.6m and 15m, running parallel to it. The Flich Way is the former railway line that runs for approximately 15 miles between Braintree and Bishop's Stortford and was decommissioned in 1972; the land between Braintree and Rayne is now owned by Essex County Council and managed by the County's Country Parks service. It forms a traffic-free part of Sustrans National Cycle Route 16, and is well used by walkers as well as cyclists. As the Flich Way passes through the countryside between Braintree and Rayne parts of the path are at grade, but other sections are within a cutting, or elevated on embankments.

5.4 To the north east of the site is a public right of way (68\_108). Beyond this is the River Brain and land allocated as 'Informal Recreation' in the Local

Plan. A small portion of the application site, the eastern corner, lies in Flood Zone 3.

5.5 A topographical survey shows that the levels across site vary significantly generally falling to the south-east, with levels of approximately +58.3mAOD at the highest point at the western corner of the site falling to +52.0mAOD at the north-eastern corner of the site and +47.0mAOD at the lowest point within the south-eastern corner of the site.

## 6.0 The 'Brook Green' And 'Gilda Terrace' Appeals

### **Brook Green**

6.1 The application site forms part of a much larger site that was subject to a planning application in 2015. That application included land to the north and south of the Flitch Way, but was colloquially referred to as 'Brook Green'. That application sought outline planning permission for the development of up to 1600 residential dwellings, a local centre; a primary school site; employment land; public open space; and associated highway works with new accesses via Pods Brook Road and Rayne Road and demolition of Nos 27 & 29 Gilda Terrace (Application Reference 15/01538/OUT).

6.2 The application was refused in December 2017 and seven reasons for refusal were listed as follows: i) inadequacies in the Environmental Statement that accompanied the application; ii) harm to designated heritage assets; iii) loss of countryside and landscape harm; iv) insufficient information to assess the highway impacts of the development; v) insufficient information to assess the ecological impacts of the development; vi) that the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the scheme; and vii) the absence of a S106 agreement to secure necessary planning obligations.

6.3 The appeal was recovered for the Secretary of State's determination, and a public inquiry was held over two weeks in September 2018 to consider the arguments.

6.4 The Secretary of State dismissed the appeal in June 2019. It was agreed that the Council could not demonstrate a 5 Year Housing Land Supply and that the tilted balance was therefore engaged. Whilst substantial weight was attributed to some of the benefits of the scheme this needed to be balanced against the harm that was identified in respect of adverse impacts on a nearby listed building; landscape harm, both to the wider Landscape Character Area and the loss of the appeal site itself; the loss of views and open outlook from the Flitch Way and public footpaths; and the fact that the development would reduce the separation of Braintree and Rayne. The Secretary of State concluded that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole and the appeal was dismissed.

- 6.5 The conclusions of the Planning Inspector and the Secretary of State are considered to be highly material to the assessment of this current application. Clearly it must be determined on its own merits and in the light of any material circumstances that are relevant at the time of determination. The application site and scale of development in this case is smaller than the Brook Green proposal, so the levels of harm and benefits will be different, but where it is considered relevant, Officers have referred to judgements and assessments that the Planning Inspector and Secretary of State made on the Brook Green scheme in this report.

### **Gilda Terrace**

- 6.6 As described earlier in this report, to the north west of the application site lies a parcel of land known as the 'Gilda Terrace' site. This site was the subject of an outline planning application (Application Reference 18/01065/OUT) that was refused planning permission in September 2020, but granted planning permission on appeal in July 2021. In determining the appeal, the Planning Inspector concluded that with regard to the character of the landscape and its sensitivity to change, limited harm would occur. However, prior to this in his decision, the Planning Inspector made some critical comments about the current application site and the importance of this parcel of land within the local landscape.

- 6.7 The Planning Inspector makes the following observation with regards the current application site:

*21. On entering Flitch Way from the built-up edge of Braintree, and after crossing Pod's Brook, there is open countryside to both sides of the path. Views to the wider expanse of farmland to the south are visually more accessible than to the north. To the north there is initially a triangular field between Flitch Way and the Sun Lido estate, and the vegetation along its boundaries helps screen views of this existing housing.*

*28. Overall, my conclusion is that the appeal site is relatively well contained visually. The impacts would be localised, and mainly from between the trees along the Flitch Way and at points from informal paths that run along its vegetated margins and embankment. The near boundary of the proposal is set back from the edge of Flitch Way, with the housing then sited behind where the main public open space and the drainage attenuation area are to be provided. Such a layout, secured through the development parameters plan, along with opportunities provided for landscaping, would further reduce the visual impact of the proposed housing. My overall conclusion is that the resulting visual harm would be limited, with the impacts being restricted to intermittent points close to the site boundary from where the housing would be seen.*

- 6.8 Therefore, given the above conclusions, Officers are of the view that the Planning Inspector considered that the current application site essentially formed part of the landscape mitigation for the 'Gilda Terrace' appeal site,

given the location of the parcel of land and its proximity to the Flich Way. This is a material consideration of significant weight in the determination of the proposal.

## 7. PROPOSAL

7.1 The application seeks outline planning permission to erect 74 affordable dwellings on the site.

7.2 All matters are reserved except for access which is shown to be from Rayne Road, via the Gilda Terrace development, allowed on appeal; and is identified on Drawing A544-pma-xx-xx-dr-a-300020 p01.

7.3 The application is accompanied by the following plans and documentation:

- Application Form
- Site Local Plan
- Topographical Survey
- Layout Plan
- Site Plan
- Landscaping Plan
- Concept Masterplan
- Typology Plan
- Storey heights Plan
- Pedestrian Priority Plan
- Pedestrian Routes Plan
- Vehicular Site Access Plan
- Building Heights Plan
- Buffer Landscape and Drainage Attenuation Plan
- Edge Conditions Plan
- Arboricultural Impact Assessment
- Affordable Housing Statement
- Archaeological and Heritage Statement
- Design and Access Statement
- Health Impact Assessment
- Landscape and Visual Impact Appraisal
- Landscape and Open Space Strategy
- Planning Statement
- Drainage Strategy
- Flood Risk Assessment
- Preliminary Ecological Assessment
- Foul Sewage and Utilities Assessment
- Preliminary Risk Assessment Report
- Statement of Community Involvement
- Transport Assessment
- Travel Plan
- Biodiversity Net Gain Report

7.4 Prior to the publication of the Committee Report, the Applicant sought to submit a number of revised plans. These have not been accepted by the Local Planning Authority.

## 8. SUMMARY OF CONSULTATION RESPONSES

### 8.1 Active Travel England

8.1.1 No comments received.

### 8.2 Anglian Water

8.2.1 Assets Affected - There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. An informative is requested.

8.2.2 Wastewater Treatment - The foul drainage from this development is in the catchment of Braintree Water Recycling Centre that will have available capacity for these flows.

8.2.3 Used Water Network - This response has been based on the following submitted documents: Drainage Strategy and Flood Risk assessment. The sewerage system at present has available capacity for these flows, to connect by gravity. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection. A number of informatives are requested.

8.2.4 Surface Water Disposal - The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments in the suitability of the surface water management.

### 8.3 Environment Agency

8.3.1 No comments.

### 8.4 Essex Fire and Rescue

8.4.1 Access - Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13 and would be acceptable provided that the arrangements are in accordance with the details contained in the Approved Document to Building Regulations B5.

8.4.2 Extract from guidance: For dwelling houses, access for a pumping appliance should be provided to within 45m of all points inside the dwelling house. Therefore, the following matters need to be addressed before access for Fire Service purposes can be satisfactory: The surface of both the main vehicular access road into the site, and the internal access roads (the loop arrangement) should be capable of sustaining a load of 18 tonnes for pumping appliances. Changes of direction by bends should accommodate a turning circle of 17.8m and a sweep circle of 19.0m. The overall width of the access path should not be less than 3.7m. Openings or gateways should not be less than 3.1m. Headroom should not be less than 3.7m. Where any changes of levels are involved, as in the case of a kerb, they should be ramped, or have a kerb height not exceeding 90mm.

8.4.3 Advice is provided regarding Building Regulations, that additional water supplies for firefighting may be necessary for the proposed development, and the use of sprinkler systems.

## 8.5 Essex Police

8.5.1 Braintree District Local Plan 2022 states: LPP52 (h) Designs and layouts shall promote a safe and secure environment, crime reduction and prevention, and shall encourage the related objective of enhancing personal safety with the maximum amount of natural surveillance of roads, paths and all other open areas and all open spaces incorporated into schemes LPP52 (j) The design and level of any lighting proposals will need to be in context with the local area, comply with national policy and avoid or minimise glare, spill and light pollution on local amenity, intrinsically dark landscapes and nature conservation LPP52 (m) The development proposed should not have a detrimental impact on the safety of highways or any other public right of way, and its users.

8.5.2 Whilst there are no apparent concerns with the layout to comment further, we would require the finer detail such as the proposed lighting, boundary treatments and physical security measures.

8.5.3 We would welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with this policy by achieving a Secured by Design Homes award. An SBD award is only achieved by compliance with the requirements of the relevant Design Guide, ensuring that risk commensurate security is built into each property and the development as a whole benefitting both the resident and wider community.

## 8.6 NHS

8.6.1 Financial contribution of £36,800 is sought to be secured through a planning obligation in the form of a S106 Agreement is linked to any grant of planning permission in order to increase capacity for the benefit of patients of the Primary Care Network operating in the area. This may be achieved through any combination of extension, reconfiguration, or relocation of premises.

- 8.7 Natural England
- 8.7.1 Designated Sites (European) - No objection subject to securing appropriate mitigation.
- 8.8 Ramblers Association
- 8.8.1 No comments received.
- 8.9 BDC Ecology
- 8.9.1 No objection subject to securing:  
a) A financial contribution in line with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy; and  
b) biodiversity mitigation and enhancement measures.
- 8.10 BDC Environmental Health
- 8.10.1 No objection. Conditions recommended regarding the submission of an environmental management plan to include a construction of demolition method statement, contaminated land survey, no piling condition, working hours condition and protection of nearby residential amenity.
- 8.11 BDC Housing Research and Development
- 8.11.1 In accordance with Policy LPP31 to seek affordable housing, this outline proposal for up to 74 residential dwellings requires 30% of the dwellings to be provided as affordable housing which would equate to 22 homes.
- 8.11.2 The Applicant, working in partnership with a registered provider of affordable homes, has stated the intention is to deliver the whole scheme as affordable housing along with providing assurances that grant will be provided by Homes England. Although we are supportive of the principle of this approach, from a planning perspective we feel it is essential that a policy compliant 30% of the units are secured as affordable housing through a S106 Agreement.
- 8.11.3 Policy LPP35 requires all new affordable homes accessed at ground level must meet Category M4(2) or M4(3). For developments within or adjacent to the Main Towns along with Key Service Villages, 5% of all new affordable homes will be required to meet Building Regulations Category M4(3)(2)(a)/(b) – Wheelchair Accessible dwellings. Therefore, to address the challenging demand for wheelchair accessible units, a 3 bed bungalow is included in the mix. It should be noted this requirement is being met on the adjacent scheme off Gilda Terrace where two wheelchair bungalows are to be provided.
- 8.11.4 We are supportive of this application as it provides potential for a significant number of new affordable homes to be delivered in the District.

8.12 BDC Landscape Services

8.12.1 No comments received.

8.13 BDC Waste Services

8.13.1 The block paving sections of the proposed site will need to be built to adopted highway standard and maintained as such, in order for 26 tonne waste collection vehicles to access all properties. The drag distance between where the collection vehicles can stop and the place where the waste receptacles are presented, must not exceed 20 metres.

8.14 ECC Archaeology

8.14.1 The proposed site lies south of a Roman road, Stane Street, which led to the small Roman town at Braintree. Evidence for prehistoric and later activity has been recovered during nearby archaeological investigations though no settlement activity has yet been located.

8.14.2 A Desk Based Assessment (DBA) and geophysical survey have been completed across much of the site in response to an earlier application. The geophysical survey identified a curvilinear feature of probable archaeological origin and a section of probable ditch within the development site. The Heritage Statement submitted suggests the feature may relate to a settlement enclosure of possible Iron Age or Roman date and may contain further features not detected through geophysical survey.

8.14.3 An archaeological evaluation is thus required to determine the significance of any heritage assets which may be impacted upon by the proposed development in accordance with Para 194 of the NPPF and to preserve them, by record (Para 205).

8.14.4 A number of specifically worded conditions are recommended.

8.15 ECC Country Parks

8.15.1 No comments received.

8.16 ECC Education

8.16.1 Financial contribution sought for early years and childcare (£129,371.00) primary education (£514,862.00), secondary education (£395,412) and library improvements (£5,757.20) and a monitoring fee.

8.17 ECC Highways

8.17.1 From a highway and transportation perspective the impact of the proposal is not acceptable to the Highway Authority for the following reason:

1. The Applicant has not demonstrated the proposal would be acceptable in terms of highway safety and efficiency.

The curved design of the continuation of the spine road from the adjacent site at the western side of the proposal site may result in poor forward visibility for vehicles entering and exiting it. There may also be poor visibility between vehicles and pedestrians at the end of the footway provision in this location.

8.18 ECC Independent Living/ Extra Care

8.18.1 No comments received.

8.19 ECC Suds

8.19.1 No objection and suggest a number of planning conditions.

9. PARISH / TOWN COUNCIL

9.1. N/A.

10. REPRESENTATIONS

10.1 22 representations received making the following comments objecting to the scheme:

- Sufficient development already happening in Braintree to meet demand;
- Loss of wildlife habitat;
- Land is used by locals for nature walks and children could be forced to play in more dangerous areas;
- Would create more traffic congestion;
- Transport Statement is misleading;
- Capacity assessments of the nearby junctions should be carried out;
- Insufficient cycle and pedestrian access from the site;
- Concern regarding the use of a picture of a property in application documentation;
- Trees and hedgerows covered by a covenant;
- Light pollution;
- No building on green belt land;
- Loss of view;
- Loss of value to properties;
- Increased crime;
- Increased noise pollution;
- Concern about access for emergency vehicles;
- Will the property actually be affordable?;
- Disruption during construction phase;
- Adversely affect the use of the Flitch Way;
- If approved, it will lead the way to more housing along the Flitch Way;

- Misleading information regarding tree/hedgerow removal;
- Loss of privacy to properties in Springfields;
- Insufficient car parking;
- How will the site be maintained, and who will pay?;
- Not allocated in the Local Plan for development;
- The development is not wanted by local people as shown the pre-consultation exercise;
- Brook Green development by stealth;
- Too many new access points to the Flitch Way;
- Development not in keeping of the local area;
- Application site is surrounded by lots of new development;
- Additional flooding from new properties could affect existing residents;
- Increased pressure on local services such as schools and doctors surgery;
- Coalescence with Rayne;
- Increased carbon footprint from new development;
- Ecology surveys are out of date;
- The proposals would degrade the benefits of the Flitch Way Country Park;
- Hose design are nothing like the Essex vernacular;
- Insufficient public transport serves the site;
- There are ample brownfield site in the District;
- Conflict with Policy LPP1 of the Local Plan;
- Development would not enhance a valued landscape;
- Why is this site not in the Green Buffer?;
- The new development would be particularly visible from the Flitch Way; and not glimpsed views as defined by the Applicant.

## 10.2 Comments from 'Friends of the Flitch Way'.

- Part of what makes the Flitch Way so special is the surrounding rural landscape. It is under increasing pressure from development, and proposals like this will change its character forever. In the last few years there have been applications to build around 6,000 houses or commercial development across 30 sites directly adjacent to the Flitch Way.
- The proposed development site as seen from the Flitch Way, would have an adverse impact. The suggested build line is much closer to the Flitch Way than the neighbouring development.
- Draw your attention to Planning Appeals to build 1500 houses on Land North and South of the Flitch Way in Braintree District, reference APP/Z1510/W/18/3197293, which this land forms part. On 13 June 2019, the Secretary of State agreed with the Planning Inspector's conclusions and recommendation and dismissed the Appeal. One of the key reasons quoted was "that the proposal would cause harm to the character and appearance of the area, including a residual effect of major-moderate significance in the wider Landscape Character Area A12, and a substantial adverse effect arising from the loss of the appeal site itself. The Secretary of State further agrees with the

Inspector that the loss of views and open outlook from the Fritch Way and the public footpaths crossing parcel B would both suffer a major adverse impact. Taken together, these harms attract considerable weight."

## 11. PRINCIPLE OF DEVELOPMENT

### 11.1 National Planning Policy Framework (NPPF)

- 11.1.1 As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives: economic; social; and environmental; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).
- 11.1.2 Paragraph 9 of the NPPF outlines that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In addition, paragraph 38 of the NPPF prescribes that local planning authorities should approach decisions on proposed development in a positive and creative way and that decision makers at every level should seek to approve applications for sustainable development where possible.
- 11.1.3 Paragraph 12 of the NPPF sets out that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. In addition, paragraph 47 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 11.1.4 The NPPF underlines the Government's objective of significantly boosting the supply of homes. In this regard, Paragraph 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 74 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.
- 11.1.5 In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will affect whether Paragraph 11 of the NPPF is engaged and

consequently the weight that can be attributed to the Development Plan (see below).

## 11.2 5 Year Housing Land Supply

11.2.1 The Council has an up-to-date Local Plan which has an approved minimum housing target of 716 new homes per year in the District between 2013 and 2033.

11.2.2 To this annual supply the Council must add the backlog which it has not delivered at that level since the start of the Plan period. This figure is recalculated each year and as of April 2022 stands at 1,169 across the 5 Year Housing Land Supply.

11.2.3 The Council must also apply a buffer to the housing land supply based on the results of the Housing Delivery Test. In the latest results published on the 14th January 2022, the Council had delivered 125% of the homes required. This means that the Council is required to apply the lowest level of buffer at 5%.

11.2.4 Taking the above into account, the Council's latest 5 Year Housing Land Supply position for 2022-2027 shows a supply of 4.86 years. This position is marginal and with a number of strategic sites starting to deliver homes alongside other permissions, that situation is likely to change.

11.2.5 Nevertheless, as the Council cannot presently demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is engaged. It also means that the most important Development Plan policies relevant to the provision of housing are out-of-date. However, this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies. It is relevant that the shortfall is relatively modest and is expected soon to be eliminated.

## 11.3 The Development Plan

11.3.1 Currently the Council's statutory Development Plan consists of the Braintree District Local Plan 2013 – 2033.

11.3.2 The application site is located outside of any identified town, village or commercial development boundary and lies within the countryside for planning purposes. The general principle of development is therefore not supported by Policy LPP1 of the Adopted Local Plan.

11.3.3 The application site has no specific designations in the current adopted Development Plan, but it should be noted that the Flitch Way is identified for Informal Recreation as well as a Local Wildlife Site and Suitable Accessible Natural Greenspace (SANG); and the area around the River Brain is identified as a River Corridor.

- 11.3.4 Although the site was put forward for development when the Council undertook a call for sites for the new Local Plan, it was not selected as a site that should be developed and is not allocated for development on the proposals map in the Council's Adopted Local Plan.
- 11.3.5 Whilst the proposal to develop the site for housing is in direct conflict with Policy LPP1 of the Adopted Local Plan, the application cannot simply be refused for this reason. The NPPF states at Paragraph 11, footnote 7 that where a Council cannot demonstrate a five-year supply of deliverable housing sites, the most important policies for determining the application must be considered out-of-date. That does not mean that the conflict with the Development Plan is ignored but when assessing the application and undertaking the planning balance exercise, planning permission should be granted unless NPPF policies provide a clear reason for refusal, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies.

## 12. SITE ASSESSMENT

### 12.1 Location and Access to Services and Facilities

- 12.1.1 Braintree is classified as a 'Town' in the Adopted Local Plan. The overarching spatial strategy implies that, in principle, the town is capable of accommodating a significant amount of development, representing one of the most sustainable locations in the District for new growth on account of the availability of local employment, services, facilities and transport links.
- 12.1.2 The approach is consistent with the objectives of Paragraph 105 of the NPPF which states that: "*The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health*".
- 12.1.3 Sustainability is not simply a function of a development's location, but this can contribute towards the appropriateness of the principle of development and assessment of its likely adverse impacts.
- 12.1.4 Policy LPP42 of the Adopted Local Plan states that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks.
- 12.1.5 The site is located on the periphery of one of the District's main towns and the Applicant's Transport Assessment (TA) claims that the site is a suitable location for development, with good levels of access to existing pedestrian / cycling facilities, which would encourage use of these modes.

- 12.1.6 The Flitch Way forms the southern boundary of the site. The Flitch Way is a 15-mile long generally flat walking and cycling trail running along what used to historically be a single-track railway line between Braintree and Bishop's Stortford. The route offers a traffic-free environment, clear of motorised vehicles of any sort, and the TA indicates that it provides a link to Braintree Railway Station located 2km to the east. The whole route is also designated as a Country Park.
- 12.1.7 The TA states that Rayne Road is a two-way single carriageway road, subject to 30mph which comes into effect c.100m to the west of 18/01065/OUT's access proposals, at the end of Gilda Terrace. East of this point, toward the village of Rayne, is subject to a 50mph speed limit. Footways and street lighting are present on both sides of the carriageway, providing reasonably attractive routes for future residents wishing to walk to and from the site.
- 12.1.8 Two bus stops are located close to the vehicular access point serving the site, along Rayne Road. The bus service operates between Braintree Town Centre and Stansted Airport Coach Station and operates an hourly service, 7 days a week. The TA also sets out a number of local bus services, however access to these services would require a significant walk into the town centre, prior to boarding the bus.
- 12.1.9 The Applicant indicates that there are a range of amenities to serve the everyday needs of future residents located both in and around Braintree town centre and that the town centre can be seen a short walking distance to the east of the application site with facilities provided including healthcare, educational institutions, recreation facilities and open spaces, food stores, retail stores, and public transport connections from Braintree Station. However, all of these services are located at least a 1km walk away, rising to 2.1km. (14min walk to 27min walk).
- 12.1.10 The TA states that cycling has the potential to substitute for short car trips, especially those less than 5km. Thus, amenities / services including bus stops, train stations, educational facilities, religious centres, health care, restaurants, supermarkets and numerous employment, retail and leisure opportunities are located within an acceptable cycling distance of the site and there is ample opportunity for users of the site to utilise this mode of transport. The TA goes on to state that the site benefits from good connectivity to a number of cycle routes, the primary one being its local proximity to Flitch Way. There are several off-road cycle routes around Braintree, providing safe routes for cyclists to key destinations, such as Braintree Railway Station, the town centre, local schools / colleges and to surrounding areas.
- 12.1.11 The TA states that Braintree railway station is the nearest rail station to the site, located approximately 2km to the east following Flitch Way the entire length. Whilst the station is considered the maximum distance of the typical 'preferred maximum' distance set out previously, it is also accessible within a 7-minute cycle from the site also via Flitch Way, providing a dedicated

cycle route free of vehicular traffic. Furthermore, the station can be accessed within 15 minutes from the existing bus stops on Rayne Road (located outside the Site access); made up of a 5-minute bus journey eastward via Route 133, stopping at the 'Blyth's Meadow' stop and travelling by foot to the railway station via a 9-minute walk / 750m journey.

- 12.1.12 A number of links are proposed to connect the site to the Flich Way and the Applicant claims this to be a very significant benefit in terms of enhancing the site's sustainability credentials, providing a direct off-road link to the town centre. However as noted by the Planning Inspector in the Brook Green appeal, whilst the scheme would offer good opportunities to make journeys on foot and by cycling, use of these modes may be less attractive during periods of inclement weather. Moreover, the Flich Way, which is a key component of the sustainable travel credentials of the site, is unlit. This circumstance is likely to discourage use during the hours of darkness, which in the winter months would cover times when people would be making journeys for various purposes including work and shopping.
- 12.1.13 Public transport serving the site is to some extent limited. Braintree railway station is approximately 2km east of the site and provides an hourly service to Witham and the main line to London, and there is an hourly bus service which passes along Rayne Road, north of the site, with services to Braintree, Rayne, and Stansted Airport. The larger Brook Green scheme sought to address the relatively poor public transport connectivity of that site through the provision of a new regular seven day a week bus service, to connect it to the town centre. Whilst that was feasible for a development of up to 1600 dwellings, the current application is for a smaller development and it is considered that the provision of a new bus service would not be feasible or reasonable. Therefore, whilst a smaller form of development is now proposed, it still has many of the negative impacts of greenfield development, but without many of the public benefits of the larger scheme, such as a new bus service. Nonetheless, the Planning Inspector for the Gilda Terrace appeal stated: *"The housing is in a location where appropriate opportunities to promote sustainable transport modes can be taken up. Subject to the contributions secured by the s106 and to the conditions sought by the LHA, the scheme is acceptable in respect of highway safety and capacity and in terms of sustainable transport choices"*.
- 12.1.14 Therefore, in conclusion, bearing in mind that the current scheme would rely upon the vehicular access through the Gilda Terrace scheme, and that its relationship to the Flich Way, Public Rights of Way, footways and Public Transport provision would be very similar to it, it is considered that an objection cannot be raised to the planning application on accessibility grounds. It is however considered that the site's sustainability credentials in respect of accessibility have been overstated by the Applicant.

- 12.2 Design, Appearance and Impact upon the Character and Appearance of the Area
- 12.2.1 Paragraph 126 of the NPPF highlights that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities.
- 12.2.2 Paragraph 130 of NPPF states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 12.2.3 Policy SP7 of the Section 1 Plan states that all new development must meet high standards of urban and architectural design and provides a number of place making principles.
- 12.2.4 Policy LPP35 of the Adopted Local Plan requires, *inter alia*, that the density and massing of residential development will be related to the character of the site and its immediate surroundings, as well as the wider locality, existing vegetation including trees on the site and the necessity for further landscaping.
- 12.2.5 In addition, Policy LPP52 of the Adopted Local Plan require designs to recognise and reflect local distinctiveness in terms of scale, layout, height and massing of buildings. It also seeks high architectural quality and a proportion, composition, scale and orientation that enhances, activates and appropriately defines the public realm and comprise details and materials that complement, but not necessarily replicate the local architectural character.
- 12.2.6 Policy LPP35 of the Adopted Local Plan requires onsite amenity space to be provided in accordance with the adopted guidance and requires that all new development should be in accordance with the national technical housing standards.
- 12.2.7 Policy LPP52 of the Adopted Local Plan seeks a high standard of accommodation and amenity for all prospective occupants.
- 12.2.8 This is an outline planning application where layout, scale, appearance and landscaping are reserved matters and thus are not considered as part of this application. The Applicant's agent has confirmed that the submitted house types, site, and block plans are illustrative and are therefore not submitted for approval as part of this application.
- 12.2.9 Whilst the application has been submitted in outline form, with only access being considered at this stage, the Applicant has submitted a significant amount of indicative information with regards the layout, scale, appearance, and landscaping of the site. Officers have assessed this information to

come to a conclusion with regard to the capacity of the site and whether 74 units can be accommodated in an appropriate and acceptable form.

- 12.2.10 Officers consider that these documents demonstrate that the number of units proposed cannot be satisfactorily accommodated on the site without making significant compromises with regards privacy, outlook, garden sizes and car parking levels for future occupiers and would result in a sub-standard development that would fail to comply with Policies SP7, LPP35 and LPP52 of the Adopted Local Plan, the NPPF and the National Design Guidance.
- 12.2.11 In order to achieve sufficient back-to-back distances, appropriate levels of private garden, off-street car parking and meaningful public open space and landscaping, including street trees, Officers consider that the number of proposed units would have to be significantly reduced below the 74 units currently proposed.
- 12.2.12 Furthermore the design aesthetic proposed by the Applicant is based on schemes carried out by the Applicant's architects in other parts of the country. Officers consider that the proposals do not reflect local distinctiveness and would be transplanting a style that conflicts with the local context (albeit that this is a matter that can be controlled via reserved matters).
- 12.2.13 As set out earlier in the report, there is a drop in levels of approximately 10m from west to east on the application site. Members are advised that the matter of levels on the adjacent 'Gilda Terrace' site has become significant issue at the Reserved Matters application stage in connection with that proposal, and that it is likely that retaining walls will be required along with the removal of soil from the site. Nowhere in the Applicant's submission for this current application, is this significant site constraint dealt with. As such, it is considered that this is likely to be a further contributing factor in reducing the density of development proposed for the site. It also presents a further challenge in respect of neighbouring amenity impact and potentially the construction impacts of the development.
- 12.2.14 To conclude, Officers are of the view that the site is not capable of accommodating the 74 units proposed in a form that would provide sufficient back-to-back distances, appropriate levels of private garden, off-street car parking and meaningful public open space and landscaping. Consequently, the proposal would represent an overdevelopment of the site, conflicting with the policies and guidance outlined above.

### 12.3 Landscape Impact

- 12.3.1 The NPPF states in Paragraph 174 that planning policies and decisions should contribute to and enhance the natural and local environment recognising the intrinsic character and a beauty of the countryside.

- 12.3.2 Policy LPP1 of the Adopted Local Plan states, '*development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside*'.
- 12.3.3 Policy LPP67 of the Adopted Local Plan further states, '*the Local Planning Authority will take into account the different roles and character of the various landscape areas in the District and recognise the intrinsic character and beauty of the countryside in order to ensure that any development permitted is suitable for the local context*'.
- 12.3.4 The planning application is supported by a Landscape and Visual Impact Assessment (LVIA). This report contains the following conclusions and observations:

*6.8 This appraisal considered the landscape in terms of its context and character with reference to both the published County level assessment and District level assessment. Whilst the County level assessment set out relevant background, due to the scale of the proposed development it was considered most appropriate to assess the potential effects of the development at the more District level. The site falls within the Landscape Character Area (LCA) A12 Pods Brook River Valley and adjacent to B13 Rayne Farmland Plateau. Following the site visits it was concluded that whilst the site retained a number of characteristics described for Pod Brook River Valley, the site is influenced by its proximity to the urban context of Braintree which was found to of greater influence in this part of the LCA than acknowledged in the published LCA report.*

*6.9 In considering the potential effects of the proposed development on the adjacent LCA B14, it was found that there would be a limited and indirect effect which notwithstanding the loss of agricultural land and replacement with houses, would not result in any adverse effect on the LCA.*

*6.10 For LCA A12, site in its current state makes a limited contribution to the overall character of the area. There would be a direct effect resulting from the development which at year 1 was assessed as being Minor and for the reasons given above, on balance the effects would be neutral, however over time, once planting had established, at year 15, the effects were considered to be Minor and neutral – positive.*

*6.11 The site, as noted above comprises an agricultural field with a vegetated boundaries to all sides part of which is within the gardens of houses in Springfields which back onto the site. With the exception of a short length of hedgerow all boundary vegetation will be retained and accordingly, due to the nature of the site, it was not considered necessary or proportionate for this appraisal to assess the individual landscape elements, rather the site was assessed as a whole.*

*6.12 In doing so, the site was found to have a Medium/ Low sensitivity and as a result of the direct and permanent impact on the site, resulting in a Major/Moderate and adverse effect at year 1. At year 15, however, and again notwithstanding the change in use, it was concluded that well designed houses in this location, have the ability to assimilate well into the context on the edge of Braintree and that in combination with the landscape benefits afforded by the multi-functional open space to the south would result in a residual beneficial effect.*

*6.13 In assessing the visual effects of the development, and following a series of site visits, the site in its existing condition is largely screened from all but very local views adjacent to the site.*

*6.14 For those using Flich Way, views into the site exist from some locations as it passes the site, particularly where existing gaps in the vegetation exist. Proposed access at these existing gaps will facilitate views into the proposed development with houses over looking the linear park being prominent in these views. Whilst the overall effects were assessed as being Major/Moderate, by year 15, once planting has established the effects on the views would range between neutral and positive.*

*6.15 In overall conclusion, the site, whilst undeveloped sits to the south of an existing housing estate and will connect to the recently approved scheme to the south of Gilda Terrace which is currently under construction. It is considered that the proposed development could be successfully assimilated into this part of Braintree without undue harm caused to the wider landscape character of the area or without causing harm to the visual amenity of those using the surrounding roads, footpaths or the Flich Way.*

- 12.3.5 Officers engaged an Independent Landscape Consultant (ILC) to assess the document and their observations form part of the following paragraphs.
- 12.3.6 The LVIA submitted with the application considers the landscape effects of the development and the potential visual impact. The report includes a methodology in line with the Guidelines for Landscape and Visual Impact Assessment, Third Edition (GLVIA3) and provides the necessary level of information for a development of the size proposed. The report identifies a study area of approximately 1km surrounding the site. This has been established using a manual review of topography and adjacent land use, not by utilising a digital zone of theoretical visibility (ZTV). This is considered proportionate and appropriate to the size of proposed development.
- 12.3.7 Within the identified study area, the LVIA presents a thorough description of baseline character, referencing the necessary precedent landscape character studies at multiple scales. Using the descriptions provided in Table A.1 of the LVIA methodology, the ILC agrees that the site and surroundings hold a 'medium' landscape value. Whilst the ILC agrees with the LVA assessment, it is now common practice to use Technical Guidance

Note 02-21 Assessing Landscape Value Outside National Designations, published by the Landscape Institute in 2021, to assist with assessment of value. Utilising this newer guidance would encourage a finer grained assessment of landscape value. Nevertheless, the ILC agrees with the site level conclusion that “it is not within a designated landscape and whilst it is a small distinct parcel the site does make some contribution to the surrounding Landscape Character” (Paragraph 4.54).

12.3.8 The LVIA correctly identifies landscape receptors to be character area A12 Pods Brook Valley, character area B13 Rayne Farmland Plateau, and the site itself. The ILC agrees with the landscape sensitivity assessments given to character areas A12 and B13. In both cases, the LVIA assesses a combination of ‘medium’ susceptibility and ‘medium’ value to conclude ‘medium’ sensitivity. However, the ILC does not agree with the ‘medium/low’ susceptibility and sensitivity ratings afforded to the site itself. It is their opinion that the site performs an important role as an undeveloped buffer between existing residential development and the Flitch Way. The recent approval of the adjacent appeal scheme further emphasises the importance of this aspect. The ILC therefore concludes that the site itself holds ‘medium’ susceptibility to the proposals. Combined with a ‘medium’ landscape value, this equates to a ‘medium’ sensitivity.

12.3.9 The ILC agrees with the visual receptors that have been identified within the LVA:

- Receptor A – Users of the Flitch Way
- Receptor B – Users of FP 108\_68 adjacent to Pods Brook
- Receptor C – Users of FP 70\_68 (east), FP 73\_68, and FP 74\_68
- Receptor D – Users of FP 70\_68 (west) and FP 70\_71
- Receptor E – Pedestrians on streets and pavements along Springfields/Sun Lido gardens

The ILC also agrees with the visual sensitivity ratings provided for Receptors D (‘high’) and E (‘medium’), but does not agree with the ‘medium’ visual sensitivity assessments provided for Receptors A, B, and C. In each case, it is their opinion that scenic value forms an important part of the experience for users of these recreational routes and visual sensitivity to the proposals is ‘high’.

### **Landscape Effects**

12.3.10 The submitted LVIA offers a description of predicted landscape effects separated by identified receptors. Descriptions are provided, which identify the relevant changes to landscape character. It is the general opinion of the ILC that the report underestimates the level of landscape effects for some receptors. The report assesses landscape effects at Year 15 for LCA A12 to be ‘minor’ and ‘neutral/positive’. This is based on the potential for the high-quality design of new housing, as well as proximity of the LCA to existing development. It is their opinion that character effects on LCA A12 will be ‘minor’ by Year 15, but this cannot be considered to be neutral or

positive. Existing vegetation and topography around the site would restrict character effects to a local level, but the change in use from undeveloped grassland to residential development would not be beneficial. Therefore, effects on LCA A12 should be considered 'minor' and 'negative'.

- 12.3.11 With regards to the site itself, the ILC agrees with the statement describing the predicted magnitude of change, "The site will undergo a complete change in land use resulting in the site becoming part of the adjacent residential areas (including the site currently under construction)" (Paragraph 5.33). Using the methodology from the LVA, the ILC agrees that this would represent a 'moderate/major' and 'negative' effect at Year 1. However, the ILC does not agree that this would change to a 'moderate' and 'beneficial' effect by Year 15. The loss of an undeveloped buffer between existing housing and the Flitch Way will be permanently lost. Although there may be some green infrastructure enhancements, this would not outweigh the level of adverse character intrusion. It is their opinion that landscape effects on the character of the site itself will be 'moderate' and 'negative' by Year 15.
- 12.3.12 The ILC agrees with the 'minor' and 'neutral' assessment of effects on LCA B13 by Year 15. This part of the surrounding landscape character is not likely to be materially affected in an adverse way.

### **Visual Effects**

- 12.3.13 The ILC is in agreement with the assessments of visual effects at Year 15 for the following receptors:
- Receptor B – Users of FP 108\_68 adjacent to Pods Brook ('minor' and 'neutral')
  - Receptor C – Users of FP 70\_68 (east), FP 73\_68, and FP 74\_68 ('minor' and 'neutral')
  - Receptor D – Users of FP 70\_68 (west) and FP 70\_71 ('minor' and 'neutral')
  - Receptor E – Pedestrians on streets and pavements along Springfields/Sun Lido gardens ('minor' and 'neutral')
- 12.3.14 The LVA correctly identifies that visual intrusion will be contained by existing vegetation and topography, limiting visual effects to these receptors.
- 12.3.15 With relation to Receptor A, people using the Flitch Way, the ILC disagrees with the conclusions of the LVIA. The ILC does not believe that the proposed planting and open space along the southern boundary of the site would mitigate the visual intrusion of new housing to the extent asserted within the report. The LVIA correctly predicts a 'medium/high' magnitude of change to views from the Flitch Way. New housing would appear considerably closer than existing properties along Springfields. Visual effects would be increased along this particular stretch of the Flitch way as the path is level or, in places, higher than the site. The proposed open

space along the southern boundary would slightly soften the contrast between new housing and the open countryside to the south by Year 15. However, it is their opinion that a 'medium/high' magnitude of visual change would still remain. The ILC therefore assesses visual effects on users of the Fritch Way to be 'major/moderate' and 'negative' at Year 15.

## **Conclusions**

- 12.3.16 Whilst the ILC agreed with many aspects of the submitted assessment, there are some key areas that they did not agree with. It is their opinion that the LVIA understates the landscape susceptibility and sensitivity of the site itself to the proposed scheme. It also underestimates the visual sensitivity of some key receptors; recreational receptors along the Fritch Way and other surrounding footpaths.
- 12.3.17 In terms of visual effects, the ILC does not believe that the proposed planting and open space along the southern boundary of the site would mitigate the visual intrusion of new housing to views from the Fritch Way. Using the methodology within the submitted LVIA, the ILC predicts the visual effects on these recreational receptors to remain at a 'major/moderate' and 'negative' level by Year 15. The ILC believes that the predicted landscape effects on the character of the site and immediate surroundings, as well as visual effects on the users of the Fritch Way would be materially harmful and would result in conflict with the policies outlined above.
- 12.3.18 Officers have assessed the contents in the report carried out by the ILC and consider that the proposed development of the application site for residential purposes would result in significant harm to landscape character and in particular for future uses of the Fritch Way Country Park.

## 12.4 Ecology

- 12.4.1 Policy LPP66 of the Adopted Local Plan requires that development proposals shall provide for the protection of biodiversity and the mitigation or compensation of any adverse impacts. Additionally, enhancement of biodiversity should be included in all proposals, commensurate with the scale of the development.
- 12.4.2 The Council's Ecologist has reviewed the Preliminary Ecological Appraisal (Assystem Energy & Infrastructure Ltd July 2023), submitted by the Applicant, relating to the likely impacts of development on designated sites, protected and Priority Species & Habitats. In addition, the Council's Ecologist has reviewed the Biodiversity Net Gain Report (Assystem Energy & Infrastructure Ltd, July 2023), relating to the likelihood of measurable biodiversity net gains being achieved for this application.
- 12.4.3 The Council's Ecologist is satisfied that there is sufficient ecological information available for determination of this application. This provides certainty for the LPA of the likely impacts on designated sites, protected

and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

- 12.4.4 The Council's Ecologist suggests that the mitigation measures identified in the Preliminary Ecological Appraisal (PEA) should be secured by a condition of any permission and implemented in full. This is necessary to conserve and enhance protected and Priority species. As a result, it is recommended that the finalised measures should be secured via a Construction Environment Management (CEMP: Biodiversity) given the close proximity of the Flitch Way Local Wildlife Site and the River Brain.
- 12.4.5 In addition, the Council's Ecologist highlights that the site contains residential development which is situated within the Zone of Influence (ZOI) for the Blackwater Special Protection Area (SPA) and Ramsar site and Essex Estuaries Special Area of Conservation (SAC). As a result, a financial contribution (£156.76 per residential unit 2023 / 2024) should be secured in line with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS), which will need to be secured by legal agreement or S111 payment. The LPA has prepared a Habitat Regulations Assessment - Appropriate Assessment Record, which demonstrates that an adverse effect on site integrity upon the Blackwater Special Protection Area (SPA) and Ramsar site and Essex Estuaries Special Area of Conservation (SAC) from increased recreational disturbance in combination with other plans or projects can be avoided, subject to this mitigation being secured.
- 12.4.6 It is also recommended that any lighting is conditioned, given the proximity of wildlife and sensitive receptors as indicated within the Ecological Impact Assessment.
- 12.4.7 In regard to the Biodiversity Net Gain Report (Assystem Energy & Infrastructure Ltd, July 2023), it is indicated that the Council's Ecologist is satisfied that the assessment has been completed by a Competent Person. The assessment indicates that the development will deliver an increase of 1.75 habitat units (14.15 %) and 1.47 hedgerow unit (19.13 %). As a result, the Council's Ecologist is satisfied that a measurable biodiversity net gain can be achieved in principle, in line with Paragraph 174d and 180d of the National Planning Policy Framework 2021 and indicates that the updated calculations can be submitted following the updated soft landscaping plan.
- 12.4.8 However, there are a number of points that require further clarification, including confirmation of the baseline habitat area and the post implementation habitat area, which differ at present and the number of trees proposed in the post implementation, which could be addressed within a further Biodiversity Net Gain Plan, requested by condition.
- 12.4.9 Additionally, the Council's Ecologist supports the proposed bespoke biodiversity enhancement measures contained within the (PEA) and have indicated that a finalised strategy should be provided via Biodiversity Enhancement Strategy to be secured by condition.

12.4.10 This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

## 12.5 Impact upon Neighbouring Residential Amenity

12.5.1 The NPPF requires a good standard of amenity for all existing and future occupants of land and buildings. Policy LPP52 of the Adopted Local Plan seeks to ensure that there is no unacceptable impact on the amenity of nearby properties including, privacy, overshadowing, loss of light and overbearing impact.

12.5.2 The Council has received a number of written representations from residents living adjacent or near the site which raise concerns about the impact of the development on their amenity.

12.5.3 The application seeks Outline planning permission and layout is one of the Reserved Matters. The Essex Design Guide states that a reasonable standard of amenity and privacy can be achieved between two storey dwellings where they stand at least 25 metres apart, when directly facing each other, and that new dwellings should not be located within 15 metres of existing residential boundary. Officers have assessed the indicative masterplan that shows the siting of the dwellings along the northern boundary of the site and can only conclude that the site is not capable of accommodating the 74 dwellings proposed. This is because the dwellings would back onto the properties in Springfields would have back-to-back distance of approximately 22m and garden depths of less than 15m. Therefore, Officers can only conclude that the proposal by reason of overdevelopment, would be harmful to existing residents, in conflict with the NPPF and Policy LPP52 of the Adopted Local Plan.

12.5.4 Other concerns include the noise and disruption arising from construction activity, and these fears have been heightened for some residents by disturbance from the housing development at Rayne Lodge which is currently underway near the site on the northern side of Rayne Road. To some degree planning conditions can be used to limit and control demolition and construction activity but it is inevitable that local residents would be exposed to disturbance and issues like dust even with the most well-run construction site. These issues would however be temporary and concerns about problems arising from demolition and construction would not be a reason to withhold planning permission.

## 12.6 Highway Considerations

12.6.1 Paragraph 111 of the NPPF sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 12.6.2 Policy LPP43 of the Adopted Local Plan requires that development will be required to provide vehicular and cycle parking in accordance with the Essex Vehicle Parking Standards.
- 12.6.3 Policy LPP52 of the Adopted Local Plan requires that, '*The development proposed should not have a detrimental impact on the safety of highways or any other public right of way, and its users*'.
- 12.6.4 The application proposes that access is considered at the outline planning application stage and it is proposed that the development would be served by a single access point off via the Gilda Terrace development off Rayne Road.
- 12.6.5 During the processing of the application ECC Highways sought additional information from the Applicant and despite the submission of information regarding the vehicular access onto Rayne Road, the Highways Authority are not satisfied with the information submitted with regards the access route into the site, and a holding objection is raised.
- 12.6.6 ECC Highways have indicated that the Applicant has not demonstrated the proposal would be acceptable in terms of highway safety and efficiency. Specifically, the curved design of the continuation of the spine road from the adjacent site at the western side of the proposal site may result in poor forward visibility for vehicles entering and exiting it. There may also be poor visibility between vehicles and pedestrians at the end of the footway provision in this location.
- 12.6.7 The Essex Parking Standards 2009 require two off street car parking spaces per dwelling. Whilst the indicative plan shows two spaces per dwelling, the second space would sit partly into the private rear garden and compromise this private amenity space. Officers consider that this arrangement is a further indication that the site is not able to accommodate the number of dwellings proposed and that the proposals would amount to an overdevelopment of the site.
- 12.7 Archaeology
- 12.7.1 The proposed site lies south of a Roman road, Stane Street, which led to the small Roman town at Braintree. Evidence for prehistoric and later activity has been recovered during nearby archaeological investigations though no settlement activity has yet been located.
- 12.7.2 A Desk Based Assessment (DBA) and geophysical survey have been completed across much of the site in response to an earlier application. The geophysical survey identified a curvilinear feature of probable archaeological origin and a section of probable ditch within the development site. The Heritage Statement submitted suggest the feature may relate to a settlement enclosure of possible Iron Age or Roman date and may contain further features not detected through geophysical survey.

12.7.3 A Desk Based Assessment (DBA) and geophysical survey have been completed across much of the site in response to an earlier application. The geophysical survey identified a curvilinear feature of probable archaeological origin and a section of probable ditch within the development site. The Heritage Statement submitted suggest the feature may relate to a settlement enclosure of possible Iron Age or Roman date and may contain further features not detected through geophysical survey.

12.7.4 An archaeological evaluation is thus required to determine the significance of any heritage assets which may be impacted upon by the proposed development in accordance with Para 194 of the NPPF and to preserve them, by record (Para 205).

12.7.5 Specifically worded conditions are requested requiring a programme of archaeological investigation to be submitted prior to the commencement of development that accords with a written scheme of investigation.

## 12.8 Drainage and Flood Risk

12.8.1 Policy LPP74 of the Adopted Local Plan states that, *'new development shall be located on Flood Zone 1 or areas with the lowest probability of flooding, taking climate change into account and will not increase flood risk elsewhere'*.

12.8.2 Policy LPP76 of the Adopted Local Plan states that all new development of 10 dwellings or more and major commercial development, car parks and hard standings will incorporate Sustainable Drainage Systems (SuDs) appropriate to the nature of the site. Such systems shall provide optimum water runoff rates and volumes taking into account relevant local or national standards and the impact of the Water Framework Directive on flood risk issues, unless it can be clearly demonstrated that they are impracticable.

12.8.3 The submitted Flood Risk Assessment (FRA) shows that the majority of the site lies in Flood Zone 1. Whilst part of the red line site includes land within Flood Zone 3, the indicative masterplan shown that no built form would be sited beyond Flood Zone 1.

12.8.4 The Lead Local Flood Authority (LLFA) were consulted on the application as it relates to more than 10 dwellings. Following the submission of revised information, the LLFA have reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application and no longer raise an objection to the granting of planning permission. A number of specifically worded conditions are recommended.

12.8.5 Given this, the proposals accord with Policy LPP74 and LPP76 of the Adopted Local Plan and guidance from the NPPF.

## 12.9 Habitat Regulations Assessment (HRA / RAMS)

12.9.1 In terms of the wider ecological context, the application site sits within the Zone of Influence of one or more of the following:

- § Blackwater Estuary Special Protection Area and Ramsar site;
- § Dengie Special Protection Area and Ramsar site;
- § Essex Estuaries Special Area of Conservation.

12.9.2 It is therefore necessary for the Council to complete an Appropriate Assessment under the Habitat Regulations to establish whether mitigation measures can be secured to prevent the development causing a likely significant adverse effect upon the integrity of these sites.

12.9.3 An Appropriate Assessment (Habitat Regulation Assessment Record) has been completed in accordance with Natural England's standard guidance. Subject to the proposed mitigation measures set out in the Council's Habitat Regulations Assessment being secured these mitigation measures would rule out the proposed development causing an adverse effect on the integrity of the above European Designated Sites.

12.9.4 The proposed mitigation measures would consist of the securing of a financial contribution of £156.57 per dwelling erected towards offsite visitor management measures at the above protected sites.

12.9.5 This financial contribution would be secured by way of a Section 106 Legal Agreement.

## 13. PLANNING OBLIGATIONS

13.1 Policy SP6 of the Adopted Local Plan states that all development must be supported by the infrastructure, services and facilities that are identified as being necessary to serve the development. It also requires developers to facilitate the delivery of a wide range of social infrastructure including sufficient school places, healthcare infrastructure, green open space, places for active play and food growing.

13.2 Policy LPP78 of the Adopted Local Plan directs that permission is only granted where it can be demonstrated there is sufficient appropriate infrastructure capacity to support the development and that such capacity can be delivered by the proposal. Where a development proposal requires additional infrastructure capacity, to be deemed acceptable, mitigation measures must be agreed with the Council which can include financial contributions towards new or expanded facilities.

13.3 Policy LPP63 of the Adopted Local Plan establishes that the Council will expect all development proposals, where appropriate, to contribute towards the delivery of new Green Infrastructure, defined (amongst other things) to include open spaces, parks and allotments. Policy LPP50 states that, where a deficit of one type of open space or sports provision has been

identified by the Council, planning conditions or obligations may be used to secure this.

- 13.4 Policy SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design and this includes a range of place shaping principles, including creating well-connected places that prioritise the need of pedestrians, cyclists and public transport services above use of the private car. Policy LPP42 of the Adopted Local Plan establishes that the Council will require that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks.
- 13.5 Where a development proposal requires additional infrastructure capacity, to be deemed acceptable, mitigation measures must be agreed with the Council and the appropriate infrastructure provider. Such measures may include (but are not limited to):
- § Financial contributions towards new or expanded facilities and the maintenance thereof;
  - § On-site construction of new provision;
  - § Off-site capacity improvement works; and/or
  - § The provision of land.
- 13.6 Developers and landowners must work positively with the Council, neighbouring authorities and other infrastructure providers throughout the planning process to ensure that the cumulative impact of development is considered and then mitigated, at the appropriate time, in line with their published policies and guidance.
- 13.7 The following identified those matters that the District Council would seek to secure through a planning obligation, if it were prepared to grant permission.

#### Affordable Housing

- 13.8 In accordance with Policy LPP31 of the Adopted Local Plan, affordable housing should be provided on-site. In this location a development of 74 residential dwellings requires 30% of the dwellings to be provided as affordable housing which would equate to 22 homes.
- 13.9 The Applicant, working in partnership with a registered provider of affordable homes, has stated their intention is to deliver the whole scheme as affordable housing along with providing assurances that grant will be provided by Homes England to help deliver this. Although the Council's Housing Team are supportive of the principle of this approach, from a planning perspective, Officers note that the NPPF states that one of the objectives of the planning system is to create mixed and balanced communities (Paragraph 63).
- 13.10 The Applicant is offering 80% of the 74 units to be 'shared ownership' tenure and 20% to be 'affordable rent' – this equates to 59 and 15 units

respectively. The number of properties that would be provided as Affordable Rent tenure would be a policy compliant level of Affordable Rent. The Council's Housing Officer is satisfied with this tenure mix. Whilst Officers consider that providing 100% Affordable Housing would not be consistent with the NPPF objective of creating mixed and balanced communities this needs to be balanced against the benefit of delivering additional Affordable Homes.

- 13.11 The Applicant initially submitted to the Council a Unilateral Undertaking which stated that all of the housing within this development would be Affordable Housing. Officers explained that there were further planning obligations that would be necessary to comply with the Council's policies and mitigate the impacts of the development. The Applicant agreed that the Council would produce a Section 106 agreement which covered the required obligations. The Council's solicitor was instructed and a draft s106 agreement was produced which included a requirement for a policy compliant level of affordable housing.
- 13.12 The Applicant's solicitor replied to say that the Applicant wanted the Section 106 agreement to specify that all the housing would be provided as Affordable Housing, in accordance with the description of development. Officers were concerned that the inclusion of an obligation that 100% of the housing as Affordable Housing within the S106 Agreement would not comply with the CIL Regulations and specifically Section 122 (2) (a) or (c) as it is not the Council's position that securing 100% Affordable Housing is required to comply with the Council's planning policy, or to make the application acceptable in planning terms. Officers understood that the Applicant wanted to demonstrate to the Council that they were committed to delivering 100% of the development as Affordable Housing then a Unilateral Undertaking could be submitted which would contain an obligation that the 52 dwellings that would not be secured as Affordable Housing in the Section 106 Agreement would be provided as Shared Ownership tenure. The Applicant's solicitor said that this was not acceptable to the Applicant and that they were instructed to undertake no further work on drafting the Section 106 Agreement.
- 13.13 At the time of preparing this report Officers therefore must report that the Heads of Terms for the planning obligations are not agreed and that there is no Section 106 Agreement agreed. The absence of an agreement to secure planning obligations is an additional reason for refusal.
- 13.14 Whilst the Heads of Terms are not agreed with the Applicant, Officers consider the following obligations to be necessary.

#### NHS

- 13.15 Financial contribution of £36,800 in order to increase capacity for the benefit of patients of the primary care network operating in the area. This may be achieved through any combination of extension, reconfiguration or relocation of premises and/or clinical staff recruitment or training.

### Open Space

- 13.16 Policy LPP50 of the Adopted Local Plan states that all developments will be expected to provide new open spaces in line with the requirements set out in the Open Spaces SPD. The Councils Open Space SPD sets out details on how standards will be applied. A development of this size would be expected to make provision onsite for informal and amenity open space and an outdoor equipped play area. A financial contribution would be sought for the provision of new or improved outdoor sport and allotments to help mitigate the additional demand generated by this development for such facilities. There is also a requirement to secure the ongoing management and maintenance of any public open space provided on site and amenity areas within the site.

### Education

- 13.17 Essex County Council have stated that there is insufficient capacity at existing schools to accommodate the additional number of children who are expected to live on the development. They have requested financial contributions towards creating additional capacity. The actual level of financial contributions will be determined by the number of dwellings where it is anticipated children may leave but for Members benefit, the County Council have given an indication of the levels of contributions. The contributions are sought for early years and childcare (£129,371.00) primary education (£514,862.00), secondary education (£395,412) and library improvements (£5,757.20) and a monitoring fee.

### Highways

- 13.18 Despite the objection raised by the Highway Authority, in separate correspondence they have suggested that if permission is granted, financial contributions are paid to mitigate the impacts of the development – a contribution of £35,000 towards the Springwood Drive/ Rayne Road/Pods Brook Road roundabout improvement scheme and £27,000 towards Fritch Way improvements.

### Refuse Vehicle Access

- 13.19 To ensure that private roads within the development can be accessed by the Council so that refuse crews can pass and repass over these roads in order that they can collect refuse and recycling.

### Habitat Regulations Assessment (HRA / RAMS)

- 13.20 The site lies within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site. A financial contribution towards offsite visitor management measures for the Blackwater Estuary SPA & Ramsar site, (£156.76 per dwelling) for delivery prior to occupation would be required.

13.21 Subject to the above matters being incorporated into a Section 106 legal agreement, the development would be made acceptable in these respects. No such agreement is in place at the present time and therefore the development fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Policies LPP31, LPP50 and LPP78 of the Adopted Local Plan.

#### 14. PLANNING BALANCE AND CONCLUSION

14.1.1 The presumption in favour of sustainable development sits at the heart of the NPPF. The Framework is clear in its instruction at Paragraph 11d, that for decision-taking this means where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years), granting permission unless:

- i. The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when as a whole.

14.1.2 As the Council cannot currently demonstrate a 5 Year Housing Land Supply, the 'titled balance' pursuant to Paragraph 11d) of the NPPF is engaged. As a consequence, the most important Development Plan policies relevant to the provision of housing are currently out-of-date due to a lack of 5 Year Housing Land Supply. However this does not mean that Development Plan policies should be completely disregarded. It is for the decision-maker to determine the weight to be attributed to the conflict with those policies.

14.1.3 In this regard it is considered that Policy LPP1 of the Adopted Local Plan, which seeks to restrict development outside defined development boundaries to uses appropriate to the countryside, can only be afforded moderate weight, notwithstanding its very recent adoption. Similarly, it is considered that Policy SP3, which sets out the spatial strategy for North Essex, can only be afforded less than significant, but more than moderate weight. It is also relevant that the Council's housing land supply shortfall is marginal and is expected to be eliminated soon.

14.1.4 In this case, it is not considered that pursuant to Paragraph 11d) (i) that the application of policies in the Framework provide a clear reason for refusing the proposed development.

14.1.5 As such, pursuant to Paragraph 11d) (ii) it is necessary to consider whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposed development, when assessed against the policies in this Framework taken as a whole. Such an assessment must take account of the economic, social and environmental impact of the proposed development and these matters must be considered in the overall planning balance.

14.1.6 As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- an economic objective (to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure);

- a social objective (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being); and

- an environmental objective (to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy).

## 14.2 Summary of Adverse Impacts

14.2.1 The adverse impacts and the weight that should be given to these factors are set out below:

### **Conflict with the Development Plan**

14.2.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be "*genuinely plan led*".

14.2.3 The proposed development would conflict with Policy LPP1 of the Adopted Local Plan as it proposes development outside of defined development boundaries and within the countryside. However, while the proposal is contrary to Policy LPP1 of the Adopted Local Plan, as the Council is

currently unable to demonstrate a 5 Year Housing Land Supply, only moderate weight can be afforded to this conflict.

### **Harm to the Character and Appearance of the Area and wider Landscape**

- 14.2.4 It is considered that the proposed development would cause harm to the character and appearance of the area, most significantly in respect of the application site itself, but also more widely within the Landscape Character Area A12, although this harm would be at a lower level. The development would also reduce the sense of openness enjoyed by users of the Fritch Way and result in the loss of views across the site that users currently enjoy. This combination of harm to landscape character; failure to respect the specific landscape qualities of the site; and harm to the visual amenity of sensitive receptors are considered to be contrary to Policies LPP1 and LPP67 of the Adopted Local Plan. The latter policy is consistent with the NPPF and can be afforded full weight; and overall, the harm that would be caused to this main issue is considered to carry significant weight in the planning balance.

### **Living Conditions**

- 14.2.5 It is considered that it has been demonstrated that the site is able to accommodate the number of dwellings proposed, in a form and layout that would be appropriate for this edge of town location. The proposals would result in overdevelopment that would result in poor amenity for both future and existing residents, contrary to Policies SP7, LPP1, LPP35 and LPP52 of the Adopted Local Plan. The latter two policies are consistent with the NPPF and can be afforded full weight; and overall, the harm that would be caused to this main issue is also considered to carry significant weight against the scheme.

### **Highways**

- 14.2.6 The Applicant has not demonstrated the proposal would be acceptable in terms of highway safety and efficiency. The curved design of the continuation of the spine road from the adjacent site at the western side of the proposal site may result in poor forward visibility for vehicles entering and exiting it. There may also be poor visibility between vehicles and pedestrians at the end of the footway provision in this location. This would result in conflict with Policy LPP52 of the Adopted Local Plan, combined with the full weight that can be afforded to this policy, this harm is considered to carry significant weight in the planning balance and would justify refusal in its own right.

### **14.3 Summary of Public Benefits**

- 14.3.1 The public benefits arising from the proposal and the weight that should be accorded to these factors are set out below:

## **Delivery of Affordable Housing**

- 14.3.2 The description of development and submitted planning statement indicates that the site would offer all of the dwellings as affordable units and the Applicant was willing for this to be secured through a Section 106 Agreement. As discussed above Officers acknowledge that there remains a pressing need for Affordable Housing in the district and that significant weight is attributed to the benefit of providing 74 new Affordable Homes.

## **Economic and Social Benefits**

- 14.3.3 Although no specific details have been provided, it is also acknowledged that a development of this nature would create jobs during the construction period, both directly and indirectly. It is also accepted that new residents would consume goods and services at local businesses, increasing economic activity. As these economic and social benefits would arise from any similar sized housing development, including one without the above adverse impacts, it is considered that these should be given limited weight.

## **Section 106 Obligations**

- 14.3.4 Were they to be provided, the proposals would secure a number of planning obligations including the aforementioned affordable housing, a healthcare contribution, highways improvement contributions, open space, education, library enhancements and HRA/RAMS contribution. The Section 106 benefits are afforded limited weight, as the obligations would be mitigating the impacts of the development in accordance with planning policy.

## **14.4 Conclusion**

- 14.4.1 Taking into account the above, while the proposal complies with some Development Plan policies which weigh in favour of the proposal, it is considered that the proposal conflicts with the Development Plan as a whole. As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, as indicated above, an important material consideration in this case is that as the Council cannot currently demonstrate a 5 Year Housing Land Supply, the 'tilted balance' contained in Paragraph 11d) of the NPPF is engaged.
- 14.4.2 As a consequence, the most important Development Plan policies relevant to the provision of housing are currently out-of-date due to a lack of 5 Year Housing Land Supply. In this regard, Policy LPP1 of the Adopted Local Plan, which seeks to restrict development outside defined development boundaries to uses appropriate to the countryside, can only be afforded moderate weight. Notwithstanding this, Officers consider that there are no material considerations, including the Council's 5 Year Housing Land Supply position, that indicate that a decision should be made other than in

accordance with the Development Plan. Officers also consider that the proposals conflict with Policies SP7, LPP35, LPP52 and LPP67. The Planning Balance is concluded below.

14.5 Planning Balance

14.5.1 When considering the planning balance and having regard to the adverse impacts and benefits outlined above, Officers have concluded that even in the Highways Authority's objections were able to be overcome, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Consequently, it is recommended that planning permission is refused for the proposed development.

15. RECOMMENDATION

15.1 It is RECOMMENDED that the following decision be made:  
Application REFUSED for the reasons outlined within APPENDIX 1.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

### REASON(S) FOR REFUSAL / SUBMITTED PLAN(S) / DOCUMENT(S)

#### Submitted Plan(s) / Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Landscape Masterplan	A340-LA03A	N/A
Location Plan	A544-PMA-XX-XX- DR-A-300001 P01	N/A
Concept Plan	A544-PMA-XX-XX- DR-A-300010 P04	N/A
Other	A544-PMA-XX-XX- DR-A-300011 P04	N/A
Topographical Survey	A544-PMA-XX-XX- DR-A-300012 P04	N/A
Storey Height	A544-PMA-XX-XX- DR-A-300013 P04	N/A
Other	A544-PMA-XX-XX- DR-A-300014 P04	N/A
Other	A544-PMA-XX-XX- DR-A-300020 P01	N/A
Height Parameters Plan	A544-PMA-XX-XX- DR-A-300021 P02	N/A
Drainage Details	A544-PMA-XX-XX- DR-A-300022 P02	N/A
Other	A544-PMA-XX-XX- DR-A-300023 P02	N/A
Other	A544-PMA-XX-XX- DR-A-300024 P02	N/A

#### Reason(s) for Refusal

##### Reason 1

The proposed development is located outside of any settlement boundary. In such locations, only proposals that are compatible with and appropriate to the countryside will be permitted. The proposal is not one of those forms of development and therefore represents an encroachment into the countryside and an unacceptable form of urbanisation to the detriment of local landscape character. On this basis, the proposal is contrary to the National Planning Policy Framework, Policies SP1, SP3, SP7, LPP1, LPP42 and LPP52 of the Adopted Braintree District Local Plan (2013-2033).

##### Reason 2

The Applicant has not demonstrated that they can satisfactorily accommodate 74 dwellings on the application site. The indicative proposals indicate that the proposal would represent an overdevelopment of the site and would give rise to harm to existing residents in Springfields by reason of the fact that the indicative masterplan

indicates that the properties which would back onto the properties in Springfields would have a back to back distance of approximately 22m and garden depths of less than 15m which falls below adopted standards. The proposal is therefore contrary to the NPPF, Policy LPP52 of the Adopted Braintree District Local Plan (2013-2033), and the Essex Design Guide.

#### Reason 3

The Applicant has not demonstrated the proposal would be acceptable in terms of highway safety and efficiency. Specifically, the curved design of the continuation of the spine road from the adjacent site at the western side of the proposal site would result in poor forward visibility for vehicles entering and exiting it, contrary to Policy LPP52 of the Adopted Local Plan (2013-2033).

#### Reason 4

Adopted policies and Supplementary Planning Documents applicable to the proposed development would trigger the requirement for:

- On site Affordable Housing
- A financial contribution towards outdoor sport and allotments
- Provision of onsite informal and amenity open space and an outdoor equipped play area plus ongoing maintenance
- A financial contribution for the NHS to ensure that the impacts of increased demand for services can be accounted for
- A financial contribution towards early years and childcare, primary education, secondary education and library improvements
- A financial contribution towards the Springwood Drive/ Rayne Road/Pods Brook Road roundabout improvement scheme and towards Flitch Way improvements
- Refuse vehicle access
- A financial HRA contribution
- Monitoring fees for each planning obligation.

These requirements would need to be secured through a S106 planning obligation. At the time of issuing this decision no agreement or unilateral undertaking had been agreed. In the absence of securing such planning obligations the proposal is contrary to Policies SP6, LPP31, LPP50 and LPP78 of the adopted Braintree District Local Plan (2013-2033), the Open Space Supplementary Planning Document (2009) and Essex County Council Developers' Guide to Infrastructure Contributions (2020).

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying the areas of conflict with adopted Policy and National Planning Guidance and setting these out clearly in the reason(s) for refusal. However, as is clear from the reason(s) for refusal, the issues are so fundamental to the proposal that it would not be possible to negotiate a satisfactory way forward in this particular case.

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP16	Housing Provision and Delivery
LPP31	Affordable Housing
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems
LPP78	Infrastructure Delivery and Impact Mitigation

APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
19/00097/REF	Proposed erection of 2 new dwellings including landscaping works and new vehicular access	Appeal Dismissed	10.03.20
04/00197/ELD	Application for a Certificate of Lawfulness for an Existing Use - Change of use of land from agricultural/smallholding to residential garden/amenity land	Granted	30.04.04
05/01547/FUL	Erection of replacement two storey dwelling and alterations/additions to outbuildings	Refused	26.09.05
06/00637/FUL	Erection of replacement two storey dwelling and alterations/additions to outbuildings	Refused	12.05.06
07/01665/FUL	Erection of replacement dwelling	Granted	11.01.08
08/02041/FUL	Erection of single storey side extension for use as a utility room	Granted	16.12.08
08/00129/DAC	Application for approval of details reserved by conditions 3,4,5,6,7 and 9 of approval 07/01665/FUL - Erection of replacement dwelling	Granted	01.01.09
09/01045/FUL	Alterations and extension to existing outbuilding to form car port. Removal of existing outbuilding and replace with new building	Withdrawn	29.09.09
09/01248/FUL	Alterations and extension to existing outbuilding to form car port. Removal of existing outbuilding and replace with new building	Granted	16.11.09
12/01379/FUL	Application for a new planning permission to replace an extant	Granted	06.12.12

	permission (09/01248/FUL) - Alterations and extension to existing outbuilding to form car port. Removal of existing outbuilding and replace with new building		
14/01181/FUL	Retrospective application for engineering works to modify existing field access and enclose existing ditch	Granted	06.11.14
17/01590/OUT	Application for Outline Planning Permission with all matters reserved - Erection of up to 3 No. Dwellings	Refused	30.11.17
19/00944/FUL	Proposed erection of 2 new dwellings including landscaping works and new vehicular access	Refused	16.07.19



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## Appeal Decision

Inquiry held between 20 – 23 April 2021

Site visit made on 26 April 2021

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27<sup>th</sup> July 2021

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Appeal Ref: APP/Z1510/W/20/3265895

Land south of Gilda Terrace and north of Flitch Way, Rayne Road, Braintree, Essex CM77 6RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Acorn Braintree Ltd against the decision of Braintree District Council.
  - The application Ref 18/01065/OUT, dated 12 June 2018, was refused by notice dated 4 September 2020.
  - The proposal seeks outline planning permission for residential development (C3) for up to 120 dwellings, with all matters reserved except access, and the demolition of nos. 27 and 29 Gilda Terrace.
- 

### Decision

1. The appeal is allowed and outline planning permission is granted for residential development (C3) for up to 120 dwellings, with all matters reserved except access, and the demolition of nos. 27 and 29 Gilda Terrace at land south of Gilda Terrace and north of Flitch Way, Rayne Road, Braintree, Essex CM77 6RE, in accordance with the terms of the application Ref 18/01065/OUT, dated 12 June 2018, subject to the conditions set out in the Schedule attached to this decision.

### Preliminary Matters

2. On 22 February 2021, the Council adopted the Braintree District Local Plan 2013-2033 Section 1<sup>1</sup> (S1LP). This replaces policies CS1, CS3, CS4, CS9 and CS11 of Braintree District Core Strategy 2011 (CS). The S1LP provides strategic policies shared with two partner North Essex Authorities (NEA)<sup>2</sup>. The currently adopted development plan now includes the S1LP, along with the extant CS policies and those of the saved Braintree District Local Plan Review 2005 (RLP).
3. The Braintree Section 2 Local Plan<sup>3</sup> (S2LP) is currently under Examination. Pending completion of this, I consider that, as agreed by the parties in the planning Statement of Common Ground (SoCG), these emerging policies be afforded no more than limited weight in this decision.

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<sup>1</sup> Braintree District Local Plan 2013-2033 Section 1 – North Essex Authorities' Shared Strategic Section 1 Plan adopted February 2021.

<sup>2</sup> Colchester Borough Council and Tendring District Council.

<sup>3</sup> Section 2 – Publication Draft Local Plan June 2017

4. A Development Parameters plan forms part of the proposal. This would fix the parts of the site intended for housing of up to two-and-a-half storeys, that up to two-storeys and areas of communal open space. A concept masterplan is provided showing how these parameters might later be worked up in more detail, but at this stage this is intended to be illustrative only.
5. **The Council's** refusal of planning permission was for two reasons. The second was over the lack of a section 106 agreement (s106) securing 30% affordable housing within the scheme, as well as other measures necessary to mitigate its impacts and meet development plan policy requirements. A s106 was subsequently agreed between the appellant and Braintree District and Essex County Councils during the Inquiry and I have since been provided a signed and dated copy of this. The completed s106 addresses the outstanding matters upon which the **Council's second reason for refusal was based, which** consequently has now fallen away.
6. At the Inquiry, as set out in a specific SoCG<sup>4</sup>, the main parties had agreed over the **Council's** five-year housing land supply (5YHLS) position. This is now predicated upon the adopted S1LP and a resulting requirement for 5,521 dwellings to be provided in the period 2020-2025. On this basis, the main parties concurred that Braintree currently had a 3.74-year HLS, resulting in a shortfall of 1,388 homes.
7. On 19 May 2021, after the Inquiry and prior to this decision, the Council advised of the imminent publication of a report<sup>5</sup> setting out **Braintree District's** 5YHLS position for the period 2021-2026. This shows a HLS of 5.34 years as of 31 March 2021; a material change in circumstances from those set out in the SoCG. This necessitated further consultation of interested Inquiry parties, as to the implications of this to their previous positions. Views from both main parties were requested as to whether those policies most important for determining the appeal remained otherwise out-of-date. My decision takes into consideration the responses to these consultations.
8. On 20 July 2021, an update to the National Planning Policy Framework (the Framework) was published<sup>6</sup>. My decision reflects this, having provided the main parties an opportunity to comment over any implications this might have for their respective cases. The revisions, whilst significant, seek mainly to achieve high quality, beautiful and sustainable buildings and places. Given the outline nature of this appeal scheme, much of what the updated Framework seeks might be securable through approval of reserved matters and has limited bearing on this case.

#### Main Issue

9. On the basis of the **Council's** remaining reason for refusal, the main consideration in this appeal is:
  - the effect of the proposal on the character and appearance of the site and surrounding landscape, including as viewed from public vantage points such as Flich Way, and in respect of the perceived physical separation of development in Braintree and Rayne.

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<sup>4</sup> Statement of Common Ground: Five Year Housing Land Supply 11 March 2021

<sup>5</sup> Housing Land Supply Braintree District – March 31 2021, published May 2021

<sup>6</sup> Updated on 20 July 2021

## Reasons

### *Landscape character*

10. The appeal site is of some five hectares and comprises part of a larger parcel of agricultural land. This lies to the rear of Gilda Terrace; a section of ribbon housing development running alongside the Rayne Road. To one side of the site is the Sun Lido Square Gardens/Springfields housing estate (Sun Lido). This development lies just beyond **Pod's Brook**; a river which runs to this side of Braintree. Sun Lido comprises the outward extent of the urban edge on this side of town, with the ribbon of housing in Gilda Terrace projecting beyond this. From this housing, the appeal site is at the start of a substantial gap of mainly undeveloped countryside between Braintree and the next settlement of Rayne.
11. The housing proposed would extend no further towards Rayne than Gilda Terrace. To the rear, it would extend almost up to Flitch Way; the former railway line now serving as a cycling/walking route between Braintree and **Bishop's Stortford**. The stretch of Flitch Way between Braintree and Rayne is a popular and well-used recreational route for residents of this area.
12. The appeal site comprises a relatively small portion of the much more extensive Brook Green proposal. This more substantial scheme had included land both to the north and south of the Flitch Way and had sought to provide up to 1,500 new homes. The Secretary of State dismissed an appeal<sup>7</sup> over this larger proposal in June 2019, following an Inquiry held in September 2018, giving considerable weight to the landscape impacts.
13. This appeal is over a substantially smaller development than the Brook Green proposal. In regard to landscape character, the area benefits from no statutory protection. Neither is there any particular landscape designation provided in the current development plan. Therefore, the appeal site does not form part of a valued landscape in the context of Framework paragraph 174 a), in respect of requiring protection and enhancement in a manner commensurate with either its statutory status or an identified quality in the development plan. Nevertheless, the site is within countryside strongly valued by local residents, whereby its intrinsic character and beauty should be recognised, as required by Framework paragraph 174 b).
14. The appeal site falls within the much wider South Suffolk and North Essex Clayland National Character Area<sup>8</sup>. This largely comprises a plateau of gently undulating farmland, traversed by watercourses and containing patches of ancient woodland and long-established vegetated field boundaries. At a finer grain, the appeal site sits within the shallow valley side of **Pod's Brook** which, at a County level, falls at the extremities of the Blackwater/Brain/Lower Chelmer Valleys Landscape Character Area (LCA) C6<sup>9</sup>. At a District-level, the appeal site falls within LCA A12<sup>10</sup>; describing the Pod's Brook River Valley itself. This denotes a narrow, linear area that extends north-westwards from the western fringe of Braintree to Great Bardfield, following the line of **Pod's Brook**. The higher land to either side falls within LCA B13: Rayne Farmland Plateau.

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<sup>7</sup> Appeal reference APP/Z1510/W/18/3197293

<sup>8</sup> <https://www.gov.uk/government/publications/national-character-area-profiles-data-for-local-decision-making/national-character-area-profiles>

<sup>9</sup> Essex Landscape Character Assessment as prepared by Chris Blandford Associates in 2003

<sup>10</sup> Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments – Chris Blandford Associates September 2006

15. **The Pod's Brook River Valley LCA had provided a baseline for the appellant's** Landscape and Visual Impact Appraisal<sup>11</sup> (LVIA). The Council had produced a shadow LVIA<sup>12</sup> of this proposal. In response to this, the appellant had then produced a LVIA addenda, addressing both the County LCA C6 and five additional viewpoints suggested. The total of 16 agreed viewpoints provided the basis for my site visit itinerary.
16. The County and District LCAs treat this river valley landscape consistently. I refer to **the latter, which is to a finer grain and referenced in the Council's** reason for refusal. LCA A12 comprises a narrow, shallow valley cutting through the surrounding farmland plateau. The valley sides are generally farmed, with irregularly shaped fields, deciduous woodland occupying the valley floor and a vegetation lined **Pod's Brook**. The LCA notes that, as the river reaches the edge of Braintree, woodland cover is reduced and the valley becomes more open, with larger arable fields sloping down to meet it.
17. The sensitive landscape character elements **to the Pod's Brook River Valley** are described to include a complex pattern of small pastoral fields and deciduous woodland plantations along the valley floor and deciduous trees which mark the course of the river. The LCA refers to both an overall sense of tranquillity and the valley slope skyline views as being susceptible to harm from development. **Whilst the Pod's Brook River Valley is generally characterised by a limited** amount of habitation, open views of valley sides and relative tranquillity, this is not so evident here. In this location, the housing at Gilda Terrace and Sun Lido already extend the urban edge of Braintree up to the LCA.
18. This urban edge development has a strong influence on the landscape character of the immediate surroundings, which is at variance with that described generally for this LCA. The appeal site has existing housing along two sides and it is not proposed to extend development any further along these edges. Although outside the boundary defined for LCA A12, this existing housing occupies part of the river valley and strongly influences the landscape character of the immediate surroundings. Unlike the lesser developed areas further to the north, in this part of the LCA there are adjacent areas of housing on both sides of the shallow valley, which form part of the urban edge of Braintree. Whilst the proposal would extend this urban edge further up the outward valley side, this would integrate visually with this existing built up area. In this context, there would be only a limited degree of harm to the landscape character sensitivities described generally for the wider LCA A12.

#### *Visual impact*

19. With regard to the visual impact of the proposals, my findings are based on the **appellant's LVIA and the photographs with wireline depictions** of the indicative development from various viewpoints. These were then seen at first hand at my site visit.
20. The appeal site is not crossed by, nor directly abuts, any public right of way. However, in the Brook Green appeal, the Secretary of State agreed with the Inspector that the loss of views and open outlook from the Flitch Way resulted in a major adverse impact.

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<sup>11</sup> Land to the South of Gilda Terrace, Braintree Landscape and Visual Impact Appraisal March 2020 Arc Ref: A288-RE01 prepared by Arc Landscape Design and Planning Limited.

<sup>12</sup> TLP Landscape and Visual Impact Assessment - 23 March 2021

21. On entering Flitch Way from the built-up edge of Braintree, and after crossing **Pod's Brook**, there is open countryside to both sides of the path. Views to the wider expanse of farmland to the south are visually more accessible than to the north. To the north there is initially a triangular field between Flitch Way and the Sun Lido estate, and the vegetation along its boundaries helps screen views of this existing housing.
22. After the triangular field, the next one along accommodates the proposed development. From the adjacent sections of Flitch Way there are intermittent views of the rear of properties in Gilda Terrace and Sun Lido, between the intervening vegetation and at a distance across the appeal site. These views would be clearer in mid-winter but are more obscured in the summer with the greater foliage. The proposal brings the current extent of housing significantly closer towards Flitch Way. Despite this, views of the new development would remain fleeting, seen intermittently between the trees and vegetation. Such screening that exists might be strengthened by further planting within the public open space on the south side of the scheme, to be agreed at the detailed landscaping stage.
23. Further along from Braintree, Flitch Way runs within an embankment. This effectively removes views of the appeal site from its main thoroughfare. However, informal paths run up and along this embankment and, from the top, the scheme would be prominent from certain views, seen across the existing fields and towards Gilda Terrace and Sun Lido. These visual impacts would in time be softened by the boundary landscaping proposed.
24. Further along Flitch Way, a footpath branches off and runs alongside the Oak Meadow Nature Reserve on the edge of Rayne. From the viewpoint along this footpath, the indicative wireline profiles indicate that the tops of the proposed houses would be visible. This would be at a distance and on the crest of the intervening arable field that rises away in the direction of Braintree. However, with the softening effects of tree planting along this nearest development edge, including that proposed off-site, the proposal would have a limited visual impact from this point.
25. From the footpath vantage points within countryside further to the south, the housing proposed would be almost entirely screened by the vegetation along Flitch Way, such as to have negligible visual impact. From the other side of Flitch Way and beyond Rayne Road, there are views from the footpath that runs from All Saints Church toward Braintree. From these points the proposed development would have a limited visual impact, being distant and largely concealed by Gilda Terrace. From closer to the site, along Rayne Road, the scheme would in the main be clearly visible only from opposite the proposed site entrance.
26. From points within the built-up outskirts of Braintree, such as on Rayne Road at the junction with Nayling Road, from the footpaths in the new Brookfield Road housing estate and, further away still, from Springwood Drive, there would be distant views of the proposal. The new housing would be visible occupying the upper parts of the grassed field on the opposite side of the Pod's Brook valley. However, such distant views would be framed by the foreground development, such that any degree of adverse visual impact would be small.
27. For immediately adjacent occupiers of Gilda Terrace and Sun Lido, in many cases the development would alter private views from rear windows and back

gardens. However, changes to the outlook from neighbouring properties is an inevitable outcome of accommodating development growth. In respect of these private views, reserved matter approval would provide a means to attend to detailed matters of scale, separation and landscaping so as to address the living conditions for existing and future households.

28. Overall, my conclusion is that the appeal site is relatively well contained visually. The impacts would be localised, and mainly from between the trees along the Flitch Way and at points from informal paths that run along its vegetated margins and embankment. The near boundary of the proposal is set back from the edge of Flitch Way, with the housing then sited behind where the main public open space and the drainage attenuation area are to be provided. Such a layout, secured through the development parameters plan, along with opportunities provided for landscaping, would further reduce the visual impact of the proposed housing. My overall conclusion is that the resulting visual harm would be limited, with the impacts being restricted to intermittent points close to the site boundary from where the housing would be seen.

*Perceived physical separation of development in Braintree and Rayne*

29. **The Council's decision refers to** this site forming part of an undeveloped area of land which has long been recognised as playing an important role in maintaining separation between the settlements of Braintree and Rayne. The site was identified as having a low capacity to accommodate new development in the **Council's** 2015 Settlement Fringes Evaluation<sup>13</sup>, to which I have had regard. In this study the appeal site falls within Parcel 17b, as one of a number that play important roles in preserving the separation between Braintree and smaller settlements in its environs. This evaluation has been reflected in the emerging S2LP, which identifies an area of land between Braintree and Rayne (which includes the application site) as a Green Buffer. Within these Green Buffer zones, emerging Policy LPP 72 would place a restriction upon further development such as that proposed. However, the S2LP is at Examination, such that the conflict with Policy LPP 72 can only be afforded limited weight.
30. Although the proposal would lead to development encroaching within the mainly undeveloped land that separates the two settlements, it would extend no further towards Rayne than Gilda Terrace. It would integrate with the existing built-up edge of Braintree by having development to two sides. Beyond this proposal, there would still remain a substantial amount of intervening countryside. The proposal would, in relative terms, cause limited further harm in reducing the degree of actual or perceived separation between Braintree and Rayne.

*Conclusion over landscape character, visual impact and effect on settlement separation*

31. The proposal would not extend further beyond the housing along its built-up sides, which would also provide screening. The scheme would lead to the urban edge of Braintree expanding in this location. Although extending further up the shallow valley side, the proposal would cause limited harm to the landscape character of this area, with visual impacts being localised and not far-reaching. An undeveloped gap between Braintree and Rayne would largely be preserved.

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<sup>13</sup> Braintree District Settlement Fringes Evaluation of Landscape Analysis Study of Braintree and environs for Braintree District Council June 2015

32. Any adverse impacts would be most keenly experienced from housing along the site boundary and the adjacent section of Flitch Way. However, the actual views of the housing from the pathway along Flitch Way would be fleeting and capable of being further screened out by boundary planting as this matures. Furthermore, the proposal is already to be set apart from Flitch Way, with the main area of open space located to provide further separation. The housing proposed would not detract significantly from the experience Flitch Way currently provides as a relatively tranquil, tree-lined conduit beyond the built-up area into the countryside.
33. To conclude on the first main issue, the proposal would have limited adverse effects on the character and appearance of the site and surrounding landscape, including as viewed from public vantage points such as Flitch Way, and in respect of the perceived physical separation of development in Braintree and Rayne. Nevertheless, the proposal effects change to the landscape in this location and therefore gives rise to some conflict with S1LP Policy SP 3 and policies CS 5, CS 8, RLP 2, RLP 80 and emerging S2LP Policy LPP 72. This is insofar as, collectively, these restrict development outside settlement boundaries in order to protect and enhance the landscape character of the countryside. I deal with the degree of conflict with these policies, and the weight attached, in the final planning balance.

#### S106 Agreement

34. The completed s106 provides for various measures. These are the securing of the required 30% affordable housing, the public open space, the Flitch Way improvements and a potential future link to it from the development, financial contributions towards education, primary health care, allotments and outdoor sports, the necessary site access junction improvements, funding towards offsite highway works and the necessary European nature conservation site mitigation payments.
35. I have considered the terms of the s106 against the tests set out in paragraph 57 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. These tests require that the s106 is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to it. On the basis of the evidence provided, I am content that the s106 satisfies these tests.

#### Other Matters

36. **Beyond the Council's reason for** refusal, consideration has been given to the further matters of concern raised by interested parties at both the application and appeal stages.
37. The new housing will result in increased pedestrian and vehicular movements to and from the site. There is reasonable accessibility to jobs, schools and other services within Braintree, such that private car dependence would not be unduly high. Increased vehicular movements would be safely accommodated by the agreed access measures onto Rayne Road.
38. The local highway authority (LHA) has approved the proposed means of access and raises no objections to the scheme, subject to financial contributions towards Springwood Drive roundabout improvements, enhanced connectivity by foot/cycle to Flitch Way and the provision of residential travel packs. The

proposal would not have an unacceptable impact on highway safety and the residual cumulative impacts on the surrounding network would not be severe. The housing is in a location where appropriate opportunities to promote sustainable transport modes can be taken up. Subject to the contributions secured by the s106 and to the conditions sought by the LHA, the scheme is acceptable in respect of highway safety and capacity and in terms of sustainable transport choices.

39. The additional population would place extra pressure on local health and education provision. However, this would be mitigated by the payments to these services secured through the s106, such that neither factor would weigh materially against the proposal. A further financial contribution towards allotments and outdoor sports would mitigate for increased demand on these facilities.
40. The s106 provides for the contributions necessary to mitigate for off-site recreational impacts on European nature conservation sites. Regarding on-site biodiversity, the development would result in little harm, and construction would be conditional upon adherence to a Construction Environmental Management Plan. To ensure the completed development delivers net benefits in this regard, an agreed Biodiversity Compensation and Enhancement Strategy for protected and priority species could be conditioned. In all, this scheme would be acceptable in respect of its impact upon the natural environment.
41. There are no grounds to find the scheme incapable of providing adequate means of foul and surface water drainage or to result in off-site flooding, and these matters can be satisfactorily addressed through planning conditions.
42. There would be some disruption to, and adverse impacts upon, the living conditions of neighbouring occupiers during the construction period. However, this is to a degree inevitable with any development, would endure for a temporary period and be capable of being ameliorated by conditions limiting operational hours and requiring adherence to an approved Construction Method Statement.

#### Habitat Regulation Assessment

43. In respect of this proposal's effects upon adjacent coastal sites protected under the Conservation of Habitats and Species Regulations 2017 (as amended), I have considered the Council's Habitat Regulation Assessment (HRA) Record dated 11 August 2020.
44. I agree that the up to 120 dwellings proposed fall within the 22km Zone of Influence (ZoI) established in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document<sup>14</sup>. This is in terms of increased recreational disturbance to coastal European designated sites, in particular the Blackwater Estuary (Mid-Essex Coast Phase 4) Special Protection Area (SPA) and Ramsar site. Within this ZoI, residents of new housing are considered likely to regularly visit relevant designated sites for recreation.
45. The s106 secures managed open space which, combining with adjoining public rights of way, provides a walking route of at least 2.7km. This includes a link to

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<sup>14</sup> Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (SPD) May 2020

and improvements towards Flitch Way. In addition to this, the s106 provides for the financial contribution towards the funding of strategic off-site recreational measures set by the RAMS in order to mitigate indirect impacts upon the adjacent European sites.

46. These avoidance and mitigation measures allow me to conclude that this proposal will not have an adverse effect on the integrity of European sites included within the Essex Coast RAMS Strategy, either alone or in combination with other plans and projects.

#### Overall planning balance

47. The Council has confirmed that it can now demonstrate a 5YHLS, due to better than expected delivery rates, positive future forecasts from developers and the inclusion of additional sites in the supply. I have no reason to take an alternative view and furthermore the appellant has not disputed this matter. The deeming effect of footnote 8 in paragraph 11 of the Framework, over the policies most important for determining the appeal being out-of-date, is no longer applicable for this reason.
48. Braintree is to be a principal focus for additional growth across the NEA area during the S1LP plan period, through the spatial strategy of Policy SP 3. This provides general support for this proposal, since this envisages further development adjoining the town, relative to its scale, sustainability and existing role. As part of the recently adopted S1LP, full weight is given to the support provided by Policy SP 3. However, this is caveated by stating that future growth will be planned to ensure existing settlements maintain their distinctive character and role, avoid coalescence and conserve their settings.
49. This proposal would not conflict with S1LP Policy SP 3 in regard to the built-up parts of Braintree and Rayne actually coalescing. The further matters of settlement character and setting are addressed by separate policies in the adopted plan. Of these, RLP 80 requires that new development is not detrimental to distinctive landscape features and successfully integrates into these. This is reasonably consistent with the Framework's **objectives** in paragraph 130 c) for development to be sympathetic to local character, including the surrounding landscape setting. However, the relative degree of visual containment of the proposed housing within the wider landscape, and its close relationship to the Braintree urban edge, limits the actual amount of harm found from the conflict with this policy.
50. There are no grounds for me to find any material harm through conflict with Policy RLP 90. The high standard of layout and design this policy requires are matters which might be achieved through reserved matter approval.
51. Policy CS 8 requires development to have regard to the character of the landscape and its sensitivity to change, over which I have found limited harm. This further requires schemes to enhance the locally distinctive character of the landscape in accordance with the LCA. This part is more onerous than Framework paragraph 174 b), which seeks only that the intrinsic character and beauty of the countryside is recognised, in locations such as this where the site is neither part of a valued landscape nor has statutory protection. Due to this inconsistency with the Framework, reduced weight is attached to the conflict found with Policy CS 8.

52. In falling outside the development boundary currently defined for Braintree, where countryside policies apply and provide it no support, this proposal is clearly in direct conflict with saved Policy RLP 2. The same applies to Policy CS 5, which strictly controls development outside settlement boundaries to uses appropriate to the countryside.
53. There is clearly some tension between the strict confinement of development to within settlement boundaries by policies CS 5 and RLP 2, and the more recent S1LP Policy SP 3, which accepts further housing growth both within and around Braintree. However, decisions over any changes to these boundaries depend on the eventual adoption of the S2LP. Policy SP 3 does not provide a free reign to all proposals adjoining settlement boundaries. The appeal site falls outside the currently adopted development boundary, where policies prioritise the protection and enhancement of rural landscape character. Whilst other policies might weigh in favour, the proposal remains in conflict with the development plan when taken as a whole.
54. The Council acknowledges that the revised HLS position has relied upon the contributions made by a number of sites outside of development boundaries, and that the restrictive nature of policies RLP 2 and CS 5 is not fully in accordance with the Framework. These development boundaries were evidently predicated upon much earlier levels of housing need, dating back to the 2001 Essex and Southend-on-Sea Replacement Structure Plan, and conceived many years prior to the publication of the original 2012 Framework. The conflict with policies RLP 2 and CS 5, over the site falling outside the settlement boundary, is therefore given limited weight, with a finding of a corresponding degree of limited harm.
55. As stated in paragraph 29, the conflict with the restriction upon further development within proposed Green Buffer zones, through emerging S2LP Policy LPP 72, can only be afforded limited weight.
56. In conclusion, I have found the proposal to result in a limited degree of harm to landscape character. However, the conflict with policy as a result of this harm, coupled with the site falling beyond the adopted development boundaries, has led me to conclude this proposal conflicts with the development plan when considered as a whole. As explained, I have given reduced weight to some of the earlier development plan policies, mainly due to some inconsistency with the Framework. Overall, there would be limited harm arising from this proposal from the conflict identified with the development plan as a whole.
57. Turning to the scheme benefits, the more optimistic HLS position reduces these in regard to meeting a general housing need, when compared to the position at the time of this Inquiry. However, achieving a 5YHLS does not indicate a ceiling in provision has been reached. I still give more than moderate weight to the social and economic benefits that up to 120 further dwellings would provide **towards the Framework's** continuing objective of significantly boosting the supply of homes.
58. It is common ground that there is a significant need for additional affordable housing in Braintree District. The benefits of this scheme in providing 30% as affordable units should, as a minimum, be given significant weight in the planning balance. Based on the evidence, I give very significant weight to the social benefits of this affordable housing.

59. A development of this scale would create appreciable economic benefits through the generation of jobs during the construction period, both directly and indirectly. Furthermore, new residents would purchase the goods and services at local businesses, thereby increasing economic activity. In this respect, I attribute moderate weight to the proposal's local economic benefits.
60. Taken as a whole the social and economic benefits are weighty, when compared to the limited harm arising from the effects on the character and appearance of the site and surrounding landscape. On an even balance, the social and economic benefits would outweigh the limited harm arising from the development plan policy conflict in respect of both landscape character and building in the countryside. This balance is clearly in favour of allowing the appeal, and this then comprises a material consideration of sufficient weight to indicate my decision be otherwise than in accordance with the development plan.

### Conditions

61. Suggested conditions were considered at the Inquiry, after which the main parties agreed a revised list addressing the questions raised. These have been assessed against the tests in paragraph 56 of the Framework which requires planning conditions be kept to a minimum and only imposed where necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. For those found to meet these tests, I have in some instances made further amendments, mainly in the interests of brevity and enforceability.
62. Condition 1 applies the standard requirements for outstanding reserved matter submissions, the time limits for these and for commencement of the development. In the interests of certainty, condition 2 specifies the plans approved, including those relating to access. In the interests of highway safety, condition 3 requires the visibility splays at the site access onto Rayne Road to be provided and thereafter maintained as approved.
63. In the interests of biodiversity, condition 4 is necessary to ensure the development accords with an approved Construction Environment Management Plan (CEMP). Measures to protect trees and vegetation during construction could form part of the CEMP or be secured through reserved matter approval. In the interests of both highway safety and the living conditions of nearby residential occupiers, condition 5 is necessary to ensure the development proceeds in accordance with an approved Construction Method Statement.
64. For environmental health reasons, condition 6 is necessary to ensure the development proceeds on the basis of an approved foul drainage strategy. Condition 7 is necessary to ensure adequate surface water drainage arrangements for the development, condition 8 to mitigate any potential site contamination and condition 9 to address any on-site archaeological interest.
65. Condition 10 requires the landscaping and future management of the off-site land to the west of the appeal site, to help assimilate the development acceptably into the landscape. To ensure the development delivers net benefits in this regard, an agreed Biodiversity Compensation and Enhancement Strategy for Protected and Priority species is required by condition 11. To safely illuminate the development without polluting the night sky or harming

protected species, condition 12 requires external lighting be provided in accordance with an approved scheme.

66. Condition 13 is necessary to ensure that, prior to occupation, each dwelling has the approved car and cycle parking and waste/recycling bins storage. To foster the take up of sustainable transport modes, conditions 14 and 15 secure upgraded bus-stops and the provision of residential travel information packs respectively. In the interests of the living conditions of residents living near to the development, condition 16 imposes necessary restrictions over the hours and days for construction and associated activity.

#### Conclusion

67. Subject to these conditions, and for the reasons set out in preceding paragraphs, I conclude that the appeal be allowed.

*Jonathan Price*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Emma Dring of Counsel  
She called

Mr Chris Tivey BSc (Hons) BPI MRTPI      Principal Director Chris Tivey Associates

Simon Neesam BA (Hons) Dip LA CMLI      Technical Director, The Landscape Partnership

### FOR THE APPELLANT:

Matthew Dale-Harris of Counsel  
He called

Guy Wakefield MRTPI      Partner at Ridge and Partners Limited

Vanessa Ross      Chartered Landscape Architect at Arc Landscape Design and Planning Limited

### INTERESTED PERSONS:

Mr Michael Eldred      Rayne Parish Council

Mrs Emma Wood      No Brook Green Action Group

Ms Sandra Reynolds      Trustee and Secretary, Friends of Flitch Way and Associated Woodland

## INQUIRY DOCUMENTS

The following documents were submitted and accepted by the Inquiry:

On behalf of the local planning authority:

Opening statement by Ms Emma Dring

Note on condition relating to blue land by Ms Emma Dring - 22 April 2021

Lead Local Flood Authority (Essex CC) consultation response 3 June 2020

Closing submissions by Ms Emma Dring

On behalf of the appellant:

Opening submissions by Mr Matthew Dale-Harris

Closing submissions by Mr Matthew Dale-Harris

On behalf of both main parties

Jointly signed Statement of Common Ground - 23 March 2021

**Draft Unilateral Undertaking with Council's comments.**

Amended off-site landscaping condition

## Schedule of Conditions

1. Details of the:

- o scale of the buildings, including finished ground floor levels above ordnance datum;
- o appearance of the buildings;
- o layout of the buildings, including footways, open space, car and cycle parking, roads, refuse/recycling bin storage areas and collection points;
- o and 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.

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

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

2. The submission of reserved matter applications pursuant to this outline planning permission shall together provide for no more than up to 120 dwellings with all matters reserved except access and the demolition of nos. 27 and 29 Gilda Terrace and shall be carried out in accordance with the following approved plans:

- a. Site Boundary Plan: 1002 Rev A;
- b. Development Parameters plan: 3502;
- c. Proposed Site Access plan: 194918-A01-01 Rev E;
- d. Swept Path Analysis plan: 194918-A01-AT01 Rev D.

3. The site access as shown on drawing 194918-A01-01 Rev E, along with its vehicular visibility splays, shall be constructed and completed prior to first occupation of the development hereby permitted. The visibility splays clear to ground shall be provided before the access is first used by vehicular traffic and shall be retained free of any obstruction at all times.

4. A Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority prior to site clearance and the commencement of development hereby permitted. The CEMP shall include the following:

- a. Risk assessment of potentially damaging construction activities;
- b. Identification of biodiversity protection zones;
- c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d. The location and timing of sensitive works to avoid harm to biodiversity features;

- e. The times during construction when specialist ecologists need to be present on site to oversee works;
- f. Responsible persons and lines of communication; and
- g. Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

- 5. No development shall take place until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The CMS shall provide for:
  - a. The parking of vehicles of site operatives and visitors;
  - b. The loading and unloading of plant and materials;
  - c. Safe access to/from the site including the routing of construction traffic;
  - d. The storage of plant and materials used in constructing the development;
  - e. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - f. Wheel washing and under-body washing facilities;
  - g. A scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction;
  - h. Measures to control the emission of dust, dirt and mud during construction;
  - i. A scheme to control noise and vibration during the construction phase, including details of any piling operations;
  - j. Delivery, demolition and construction working hours.
  - k. Details of how the approved CMS will be implemented and adhered to, including contact details for individuals responsible for ensuring compliance.

The approved CMS shall be adhered to throughout the construction period for the development.

- 6. 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.
- 7. No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include:
  - a. Measures to limit discharge rates to 4.3 l/s for the 1 in 1 year greenfield runoff rate and 5.0 l/s all storm events up to an including the 1 in 100 year rate plus 40% allowance for climate change, with all relevant permissions to discharge from the site into any outfall

- demonstrated;
- b. Provision to ensure sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event;
  - c. Demonstration that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event;
  - d. Final modelling and calculations for all areas of the drainage system;
  - e. The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753, noting that due to the number of dwellings the expected daily traffic movements will be more than 300 and, therefore, the main roads will have a medium pollution hazard rating;
  - f. Detailed engineering drawings of each component of the drainage scheme, showing the depths and side slopes of all features, detention basins with a maximum water depth of 1.2m (or to 2m if sufficient safety measures have been put in, avoiding fencing as much as possible) and detention basins and swales with side slopes of no steeper than 1 in 3;
  - g. A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and the location and sizing of any drainage features;
  - h. A written report summarising the final scheme, the conveyance of surface water and connection into the River Brain and highlighting any minor changes made;
  - i. a plan detailing the maintenance arrangements including yearly logs, responsibilities for different elements of the surface water drainage system, the maintenance activities/frequencies and details of long-term funding arrangements;

The surface water drainage scheme shall subsequently be implemented as approved prior to occupation.

- 8. Prior to the commencement of development, a comprehensive phase 2 (intrusive) survey shall be undertaken to assess the nature and extent of any contamination on the site and a copy of the survey findings, together with a remediation scheme (if identified as necessary) to bring the site to a suitable condition, shall be submitted to and agreed in writing with the local planning authority. Any remediation scheme required shall then be implemented and completed as approved prior to the commencement of development hereby approved.

Notwithstanding the above, should contamination be found that was not previously identified or not considered in the remediation scheme agreed in writing with the local planning authority, that contamination shall be made safe and reported immediately to the local planning authority. The site shall be reassessed in accordance with the above and a separate remediation scheme shall be submitted to and agreed in writing with the local planning authority. Such agreed measures shall be implemented and completed prior to the first occupation of any parts of the development.

The developer shall give one-month's advanced notice in writing to the local planning authority of the impending completion of the remediation works. Within four weeks of completion of the remediation works a validation report

undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the local planning authority for approval. There shall be no residential occupation of the site until the local planning authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the local planning authority a signed and dated certificate to confirm that the remediation works have been completed in accordance with the documents and plans comprising the remediation scheme agreed in writing with the local planning authority.

9. No development or preliminary groundworks can commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the local planning authority. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ through re-design of the development, shall be submitted to the local planning authority.

No development or preliminary groundwork can commence on those areas of the development site containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been signed off by the local planning authority.

Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the local planning authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

10. The development hereby permitted shall not commence until a landscaping and future management plan has been submitted for the off-site landscaping areas identified on drawing number A288 LA 01D, setting out long term design objectives, management responsibilities, funding arrangements, maintenance schedules and identifying proposed species and sizes, plant numbers and densities, soil specification along with details of the protection and maintenance of plants during establishment. The landscaping and future management plan shall thereafter be provided and maintained as approved.
11. Concurrently with the first submission of the reserved matters under Condition 1 of this permission, a Biodiversity Compensation and Enhancement Strategy for protected and priority species (BCES) shall be submitted to and approved in writing by the local planning authority. The BCES shall include:
  - a. The purpose and conservation objectives for the proposed enhancement measures;
  - b. Detailed designs to achieve stated objectives;

- c. A timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- d. Locations of proposed enhancement measures by appropriate maps and plans;
- e. Persons responsible for implementing the enhancement measures;
- f. Details of initial aftercare and long-term maintenance (where relevant).

Prior to occupation, the BCES shall be implemented as approved and the thereafter retained and maintained.

12. Concurrently with the first submission of the reserved matters under Condition 1 of this permission, an external lighting design scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory whilst also providing an appropriate level of lighting for safety and amenity of residents.

Prior to occupation, all external lighting shall be installed in accordance with the specifications and locations set out in the scheme and thereafter maintained in accordance with the scheme.

13. No dwelling hereby permitted shall be occupied until the parking spaces, bin storage areas and, where relevant, collection points for that dwelling have been provided and are available for use and shall be retained in the approved form thereafter.
14. No dwelling hereby permitted shall be occupied until the two bus stops opposite Gilda Terrace have been relocated and upgraded in accordance with details that shall have had the prior written approval of the local planning authority.
15. No dwelling hereby permitted shall be occupied until the details and content of a residential travel information pack, to include measures to promote and raise awareness of local opportunities for sustainable transport, have been submitted to and been approved in writing by the local planning authority and thereafter provided to occupiers of each dwelling.
16. No site clearance, demolition, construction work, starting of machinery or delivery of materials, including vehicular movements relating to the same, shall take place outside the following times:

Monday to Friday 0800 – 1800, Saturday 0800 – 1300 and at no time on Sundays or public/bank holidays.

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Ministry of Housing,  
Communities &  
Local Government

Our ref: APP/Z1510/W/18/3197293

Your ref:

Mr Pravin Patel  
PPML Consulting Ltd  
The Kinetic Centre  
Theobald Street  
BOREHAMWOOD  
Hertfordshire  
WD6 4PJ

13 June 2019

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
UP TO 1500 RESIDENTIAL DWELLINGS, A LOCAL CENTRE; A PRIMARY SCHOOL  
SITE; EMPLOYMENT LAND; PUBLIC OPEN SPACE; AND ASSOCIATED HIGHWAY  
WORKS WITH NEW ACCESSES VIA PODS BROOK ROAD AND RAYNE ROAD AND  
DEMOLITION OF NOS 27 & 29 GILDA TERRACE, RAYNE ROAD MADE BY ACORN  
BRAINTREE LTD  
LAND AT NORTH AND SOUTH OF FLITCH WAY, PODS BROOK ROAD, BRAINTREE,  
ESSEX, CM77 6RE  
APPLICATION REF: 15/01538/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Richard Clegg BA(Hons) DMS MRTPI, who held a public local inquiry on 4, 5, 7, 11-14, 18, 19 & 21 September 2018 into your client's appeal against the decision of Braintree District Council to refuse your client's application for planning permission for up to 1600 residential dwellings, a local centre; a primary school site; employment land; public open space; and associated highway works with new accesses via Pods Brook Road and Rayne Road and demolition of Nos 27 & 29 Gilda Terrace, Rayne Road in accordance with application ref: 15/01538/OUT, dated 18 December 2017
2. On 21 March 2018, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

### **Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be dismissed, and planning permission refused.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Ministry of Housing, Communities & Local Government  
Andrew Lynch, Decision Officer  
Planning Casework Unit  
3rd Floor Fry Building  
2 Marsham Street  
London SW1P 4DF

Tel: 0303 444 3594  
Email: PCC@communities.gsi.gov.uk

## **Environmental Statement**

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the environmental information submitted before the inquiry. Having taken account of the Inspector's comments at IR6, the Secretary of State is satisfied that the Environmental Statement and other additional information provided complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

## **Procedural matters**

6. The Secretary of State notes that at the pre-inquiry meeting, the Appellant agreed that the site is more clearly referred to as land north and south of Flitch Way, Pods Brook Road, Braintree, and the site has been identified accordingly in the appeal details above. The Appellant also agreed that the description of development should refer to 1600 dwellings rather than 1600 residential dwellings. The Secretary of State also notes that at inquiry due to the relocation of the school, the Appellant advised that the proposal would provide up to 1500 dwellings. The Secretary of State has therefore considered the proposal on this basis. However, the Secretary of State does not consider that the issue that led to these changes raised any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.

## **Matters arising since the close of the inquiry**

7. On 5<sup>th</sup> March the Secretary of State wrote to the main parties to afford them an opportunity to comment on the following documents that had been published since the Inquiry took place: The Written Ministerial Statement on housing and planning, issued on 19 February 2019, the publication, on 19 February 2019, of the 2018 Housing Delivery Test measurement by the local planning authority and a technical note on the process used in its calculation, the Government's response to the technical consultation, the revised National Planning Policy Framework published on 19 February 2019 and updates to the national planning policy and guidance, also published 19 February 2019, the updated guidance for councils on how to assess their housing needs published on 20 February 2019. On 15<sup>th</sup> March the Secretary of State also wrote to the main parties outlining that the January update figures provided by Braintree Council had been replaced with a new set of revised figures as of 5 March. A list of representations received in response to these letters is at Annex A. These representations were circulated to the main parties on 28 March 2019. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter. The Secretary of State has taken the representations into account in reaching his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties

## **Policy and statutory considerations**

8. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

9. In this case, the adopted development plan for the area comprises the Braintree District Council Local Development Framework Core Strategy (CS), the saved policies of the Braintree District Review Local Plan, the Essex Minerals Local Plan and the Braintree District Council Proposals Map. The Secretary of State considers that the development plan policies of most relevance to this case include those set out at IR 24 to IR 31.
10. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'). The revised National Planning Policy Framework was published on 24 July 2018 and further revised in February 2019, unless otherwise specified, any references to the Framework in this letter are to the 2019 Framework.,
11. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.
12. In accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

### *Emerging plan*

13. The emerging plan comprises the Braintree Local Plan outlined in the Inspectors Report at IR 32 to IR 35. The Secretary of State considers that the emerging policies of most relevance to this case include those set out in IR32 to IR35.
14. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The Secretary of State notes that on 8 June 2018, the Inspector for the emerging Local Plan wrote to the three local planning authority areas covered by the Part 1 Examination, setting out his views as to the further steps he considered necessary in order for the Section 1 Plan to be made sound and legally-compliant, and seeking views on options to pursue these matters. A joint response from the three authorities dated 19 October proposed suspending the Examination until February 2019, with a view to sitting again in June. In the light of these letters, and for the reasons given in IR32 to IR35 the Secretary of State agrees with the Inspector that only limited weight should be given to the BNLPP.

## **Main issues**

### *Heritage Assets*

15. The Secretary of State notes that the Inspector found that development towards the western end of the appeal site would be within the setting of listed buildings and also Rayne conservation area. He agrees with the Inspector that the settings of Church of All Saints and the conservation area would not be adversely affected (IR 177 to IR 179). However, for the reasons given in IR 172 to IR 176 the Secretary of State concludes that the setting of the listed building, Naylinghurst, would be moderately adversely affected.

Having regard to paragraph 196 of the Framework, the Secretary of State agrees with the Inspector that this would represent less than substantial harm to its significance. The Secretary of State considers that the harm to the significance of Naylinghurst carries great weight as the ability to appreciate the listed building in its agricultural context would be diminished (IR 174).

#### *Character, appearance and separation of Braintree and Rayne*

16. For the reasons given in IR 182 to IR 197 the Secretary of State agrees with the Inspector that the proposal would cause harm to the character and appearance of the area, including a residual effect of major-moderate significance in the wider Landscape Character Area A12, and a substantial adverse effect arising from the loss of the appeal site itself. The Secretary of State further agrees with the Inspector that the loss of views and open outlook from the Flitch Way and the public footpaths crossing parcel B would both suffer a major adverse impact. Taken together, these harms attract considerable weight.
17. The Secretary of State notes that the appeal site lies within the open gap between Braintree and Rayne and contributes to the green wedge which has been outlined in the emerging Local Plan (IR 198), although the weight to be attached to this plan is limited. The Secretary of State agrees with the Inspector for the reasons given in IR 198 to IR 200 that the appeal proposal would appreciably diminish the sense of separation between the settlements of Braintree and Rayne, particularly as experienced from the Flitch Way, and that this harm attracts moderate weight.

#### *Traffic movement and sustainable travel*

18. The Secretary of State notes the Inspector found that Pods Brook Road provides a link between Braintree town centre and the A120 and is a well-used route with points of pressure with delays occurring at peak periods. (IR 201-2). The Secretary of State agrees with the Inspector that a full package of transport measures including highway works in addition to sustainable transport measures is necessary to ensure that the residual cumulative impact on the road network would not be severe (IR 205). The Secretary of State notes that a range of sustainable travel measures are included in the scheme, including works to the Flitch Way, footway and cycle way links, and a bus service. (IR220). The Secretary of State agrees with the Inspector that these measures would provide a benefit to the existing community, although their primary purpose is to ensure that appropriate opportunities for sustainable transport modes are available in connection with the proposed development. The Secretary of State considers the benefits to the wider community merit some limited weight.

#### *Housing land supply*

19. The Secretary of State notes the Inspectors comments regarding the five years supply of housing land in Braintree district (IR 217). However, on 11 April, the local authority published an Addendum to their Monitoring Report, and a 5 Year Supply Site Trajectory. This reflected new affordability ratios published by the Office for National Statistics on 28 March 2019, and additional information relating to supply of sites.
20. In summary, the Addendum set out a five years land supply position for the authority of 5.29 years. While the version of the monitoring statement on which the Secretary of State referred back to parties was published on 15 January, given the minor change in the authority's assessment from 5.42 years supply to 5.29 years, and given his

conclusions below, the Secretary of State did not consider it necessary to further refer back to parties on this issue.

21. The Secretary of State has reviewed the material published on 11 April and has also considered the representations of parties made on this issue in response to his letters of 5 and 15 March.
22. Planning Practice Guidance states that in principle an authority will need to be able to demonstrate a five years land supply at any point to deal with applications and appeals, unless it is choosing to confirm its five years land supply, in which case it need demonstrate it only once per year. *Paragraph: 038 Reference ID: 3-038-20180913*
23. In this case, the authority has not 'confirmed' its five years land supply. Paragraph 74 of the National Planning Policy Framework sets out that this can only be carried out through a recently adopted plan (defined in footnote 38 of the Framework) or subsequent annual position statement. In the circumstances, the Secretary of State has considered the latest evidence before him.
24. Having reviewed the housing trajectory published on 11 April, the Secretary of State considers that the evidence provided to support some of the claimed supply in respect of sites with outline planning permission of 10 dwellings or more, and sites without planning permission do not meet the requirement in the Framework Glossary definition of "deliverable" that there be clear evidence that housing completions will begin on site within five years. He has therefore removed ten sites from the housing trajectory.
25. The Secretary of State considers that, bearing this definition in mind, the authority is able to demonstrate 4.15 years supply. The Secretary of State considers that the delivery of housing and affordable housing on this site to contribute to the five years supply is an important contribution to which he attaches significant weight.

#### *Travellers site*

26. The Secretary of State agrees with the Inspector (IR 208) that the proposal would assist in the contribution to meeting the need for Traveller accommodation and would be consistent with the local plan policy representing a benefit of the proposal, the Secretary of State considers that this merits modest weight.

#### *Primary school education contribution, open space and sports facilities*

27. For the reasons given in IR 221 the Secretary of State agrees with the Inspector that the provision of a primary school within the site would be of limited benefit as the majority of the provision would be needed for the proposed development, and only a small number of school places would be available for the wider community. Therefore, the Secretary of State considers that the provision of a primary school on site attracts limited weight. The Secretary of State also notes the Inspectors findings (IR 222) that a minimum of 17.65ha of open space would be provided over the site. The Secretary of State considers that the open space would no doubt be used by existing residents, but its purpose is essentially to ensure a satisfactory standard of development, he therefore only gives this limited weight.

#### *The local centre, employment land and economic considerations*

28. For the reasons given in IR 224 the Secretary of State agrees with the Inspector's findings that the local centre would primarily serve the new residential development he

therefore considers this carries limited weight in support of the scheme. For the reasons given in IR 225 and IR 226 the Secretary of State agrees with the Inspector that the economic benefits of the proposal carry moderate weight as the benefits outlined are of a generic nature which would apply equally to any large housing scheme.

### **Planning conditions**

29. The Secretary of State has given consideration to the Inspector's analysis at IR 230 to IR 232, the recommended conditions set out at the end of the Inspectors Report and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

### **Planning obligations**

30. Having had regard to the Inspector's analysis at IR228 and IR229, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR 229 that the obligation proposed, but not signed (Core Document 6.9 of the Inquiry documents), complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

### **Planning balance and overall conclusion**

31. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with CS1, CS4, CS5, CS7, CS8, CS9, RLP 53, RLP 80, RLP 84, RLP90, RLP95, RLP 100, RLP 140 and S8 of the development plan, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
32. The Secretary of State has concluded that Braintree are not able to demonstrate a five year housing land supply. Framework paragraph 11(d) of the Framework indicates that in these circumstances planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.
33. The Secretary of State has considered whether the identified 'less than substantial' harm to the significance of Naylinghurst is outweighed by the public benefits of the proposal, as required by paragraph 196 of the Framework. He has found that great weight should be attributed to this harm. Against this, the benefits of the scheme in the form of housing provision and affordable housing carry significant weight, economic benefits carry moderate weight and limited weight attaches to benefits in terms of sustainable travel measures, surplus school places, open space provision, and the local centre and employment land which form part of the scheme. In total and weighed against the harm to the significance of Naylinghurst, the Secretary of State finds that the public benefits do

outweigh the harm to the significance of Naylinghurst, and that the Framework paragraph 196 test is therefore favourable to the proposal.

34. Having carried out the balancing exercise in framework paragraph 196, the Secretary of State concludes that there are no policies under 11 d) i that provide a clear reason for refusing the development. He has gone on to consider whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.
35. In addition to the great weight to be attached to the harm to the significance of Naylinghurst, the Secretary of State has found that the effect of major-moderate significance in the wider Landscape Character Area A12 carries at least moderate weight, and the substantial adverse effect arising from the loss of the appeal site itself, carries considerable weight, as does the loss of views and open outlook from the Fritch Way and the public footpaths crossing parcel B. Moderate weight is also given to the effect the development will have on the separation of Braintree and Rayne, all weighing against the proposal.
36. In favour of the proposal are the benefits as set out in paragraph 33 of this letter.
37. Overall, the Secretary of State concludes that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole. He therefore concludes that there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

### **Formal decision**

38. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for up to 1500 residential dwellings, a local centre; a primary school site; employment land; public open space; and associated highway works with new accesses via Pods Brook Road and Rayne Road and demolition of nos 27 & 29 Gilda Terrace, Rayne Road.

### **Right to challenge the decision**

39. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
40. A copy of this letter has been sent to Braintree District Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Andrew Lynch*

Andrew Lynch

Authorised by the Secretary of State to sign in that behalf

**SCHEDULE OF REPRESENTATIONS****General representations**

<b>Party</b>	<b>Date</b>
No Brook Green Action Group	16/03/2019
PPML Consulting Ltd	22/03/2019
Braintree District Council	26/03/2019



# **Report to the Secretary of State for Housing, Communities and Local Government**

**by Richard Clegg BA(Hons) DMS MRTPI**

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

**Date: 11 January 2019**

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**TOWN AND COUNTRY PLANNING ACT 1990  
BRAINTREE DISTRICT COUNCIL  
APPEAL BY  
ACORN BRAINTREE LTD**

Inquiry opened on 4 September 2018

Land north & south of Flitch Way, Pods Brook Road, Braintree, Essex, CM77 6RE

File Ref: APP/Z1510/W/18/3197293

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<https://www.gov.uk/planning-inspectorate>

**File Ref: APP/Z1510/W/18/3197293**  
**Land north & south of Flitch Way, Pods Brook Road, Braintree, Essex, CM77 6RE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Acorn Braintree Ltd against the decision of Braintree District Council.
- The application Ref 15/01538/OUT, dated 11 December 2015, was refused by notice dated 18 December 2017.
- The development proposed is described as 'up to 1600 residential dwellings (class C3) on 32.75ha of land; an 800m<sup>2</sup> local centre (use classes A1/A2/D1/D2 – no more than 200m<sup>2</sup> A1) on 0.29ha of land; a 2.2ha primary school site (class D1); 0.65ha employment land (class B1); 12.3ha of public open space; and associated highway works with new accesses via Pods Brook Road and Rayne Road and demolition of Nos 27 & 29 Gilda Terrace, Rayne Road'.
- The inquiry sat for 10 days: 4, 5, 7, 11-14, 18, 19 & 21 September 2018.
- Site visits took place on 3 & 20 September 2018.

**Summary of Recommendation: The appeal be dismissed.**

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**Procedural Matters**

1. The appeal was recovered for decision by the Secretary of State by a direction dated 21 March 2018, as it involves proposals for residential development of over 150 units or on sites of over 5ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed, and inclusive communities.
2. No Brook Green Action Group (NBGAG) had served a statement of case in accordance with Rule 6(6) of The Town and Country Planning (Inquiries Procedure) (England) Rules 2000, and it took a full part in the proceedings of the inquiry.
3. A pre-inquiry meeting was held in July 2018 to discuss procedural and administrative arrangements relating to the inquiry<sup>1</sup>.
4. On the application form, the location of the site is given as Flitch Way, Rayne, Braintree. At the pre-inquiry meeting, the Appellant agreed that the site is more clearly referred to as land north and south of Flitch Way, Pods Brook Road, Braintree, and I have identified it accordingly in the appeal details above. The Appellant also agreed that the description of development should refer to 1600 dwellings rather than 1600 residential dwellings.
5. The planning application was submitted in outline form, with approval sought for access at this stage. A masterplan and a series of parameter plans were also submitted as part of the application. That masterplan (ref 3202E) shows the primary school located adjacent to the access from Pods Brook Road, on that part of the site to the south of the Flitch Way (parcel B). In response to the Local Education Authority's preference for a different location for the school, in July 2018 the Appellant submitted a revised masterplan showing the school to the north of the Flitch Way, together with a revised set of parameter plans (in Core Document 4.5 (CD4.5)).

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<sup>1</sup> The note of the pre-inquiry meeting is at CD6.6.

6. An environmental statement (ES) accompanied the planning application. In response to requests from the District Council under Regulation 22 (1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, further information was submitted in February and October 2017 (in CD4.4). Notwithstanding the submission of this further information, the first reason for refusal referred to concern about the adequacy of the ES. Further information in response to the Council's concern was subsequently provided in an ES Addendum in July 2018 (CD4.5), which also addressed the implications of the relocation of the primary school. The Appellant notified interested parties of the ES Addendum (Document O4), and I have been able to take the representations received into account in considering the appeal proposal. In August 2018, the Secretary of State made a Regulation 22 request in respect of details concerning certain viewpoints in the landscape and visual impact assessment, the implications of acoustic fencing, and a revised non-technical summary covering those matters. The Appellant responded to this request on 31 August (CD4.8). The Addendum has been the subject of publicity, and the further information on points of detail supplied in response to the August 2018 Regulation 22 request was referred to at the inquiry. At the inquiry, the District Council did not pursue an objection to the adequacy of the ES, nor was this a matter advanced by any of the other parties who appeared. I do not consider that prejudice would be caused to any party by taking the ES Addendum and August 2018 information into account, and I have proceeded accordingly. I am satisfied that the ES, comprising the ES as amended by the February & October 2017 Regulation 22 responses, the ES Addendum and August 2018 information, meets the requirements of Schedule 4 of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011.
7. In the light of my view on the ES, which includes the revised masterplan and parameter plans in the Addendum, I have taken those plans, which address the relocation of the primary school, into account in my consideration of the appeal proposal.
8. A planning agreement and a draft unilateral undertaking were submitted at the inquiry. The agreement (CD9.46), made between the District Council, the County Council, the owners and the Appellant, includes obligations concerning: on-site open space, affordable housing, a gypsy & traveller site, works to the Flitch Way, recycling facilities, highway works, a bus service, the school site, sustainable travel, mineral extraction, and contributions towards community facilities, healthcare purposes, improving pedestrian and cycling facilities, and education.
9. The draft unilateral undertaking (CD9.45), which would be given by the owners and the Appellant to the District Council, was prepared in response to a letter from Natural England<sup>2</sup> concerning an emerging strategic approach to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). As part of a package to mitigate the impact on coastal European designated sites, a financial contribution is sought in respect of larger scale residential developments (100 dwellings or more) to fund strategic off-site measures. At the date of the inquiry there was no information on the level of contribution sought, and the deed could not, therefore, be executed.

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<sup>2</sup> Document L9, Appendix 10.

10. The Appellant and the District Council agreed the preparation of a set of core documents. These are listed separately in Document O1, with a supplementary list attached to this report. NBGAG submitted two DVDs, one of highway conditions on Pods Brook Road and Rayne Road and the other showing an aerial view of the appeal site (CD9.47 & CD9.48). Both these DVDs were viewed as part of the inquiry.
11. This report contains a description of the site and its surroundings, an explanation of the proposal, identification of relevant planning policies, details of agreed matters, and the gist of the submissions made at the inquiry and in writing, followed by my conclusions and recommendation. Lists of appearances and inquiry documents are appended. The written closing submissions on behalf of the Council, the Appellant and NBGAG are included as inquiry documents: in delivery they were subject to a number of detailed amendments.

### **The Site and Surroundings**

12. The appeal site comprises an area of predominantly open land between Braintree and the smaller settlement of Rayne, which lie to the east and west respectively<sup>3</sup>. The eastern side of the site is about 1km from Braintree town centre, and the western side of the site is about 0.4km from built development in Rayne. The A120, which leads to Colchester and Harwich to the east and to Stansted Airport to the west runs past the southern boundary of the site, and the distance from the junction of Pods Brook Road and the A120 to the Aetheric Road/ Rayne Road junction at the edge of the town centre is about 1.6km. The appeal site is bisected by the footpath and cycleway known as the Flitch Way. This route runs for 24km between Braintree and Bishops Stortford, and is a country park. There is a network of public rights of way in the area, with several footpaths crossing parcel B<sup>4</sup>.
13. The northern part of the appeal site abuts the row of houses at Gilda Terrace on Rayne Road. Beyond Rayne Road open land in agricultural use extends to the north and north-west, and to the north-east housing is under construction close to the built-up area of Braintree. Farmland also lies to the west and south-west of the site. Closer to Rayne are a nature reserve and playing fields, with a paddock for horses to the south side of the Flitch Way. Rayne Conservation Area covers the eastern side of the settlement: the group of buildings at its northern end includes the Church of All Saints, which is a grade I listed building. A grade II listed building, Naylinghurst, is situated on the south-west side of the site. There are a number of other listed buildings in the locality, principally within Rayne Conservation Area<sup>5</sup>.
14. Pods Brook flows from the north of Rayne Road, past the north-east side of the site towards the Flitch Way. There is residential development between the site and the watercourse at Sun Lido Square Gardens and Springfields, and beyond Pods Brook is further housing within Braintree. The watercourse crosses the site from the Flitch Way to Pods Brook Road, beyond which it flows along the northern boundary of a finger of land forming part of the site. On the north side

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<sup>3</sup> The location of the appeal site is shown on Plan 1.

<sup>4</sup> Public rights of way are shown on figure 5, Document A13.

<sup>5</sup> The extent of Rayne Conservation Area is shown on the Brook Green extract of the ELP proposals map. The location of the listed buildings is shown on figure 13.1 of the ES. The list description for the Church of All Saints is at para 4.17 of Document A1, and that for Naylinghurst is included in Appendix A of Document L2.

of this land is a cemetery, whilst to the south housing is under construction (Meadow Rise). Between the A120 and the A131 are several modern business units, and on the south side of the latter road is the built-up area of Great Notley.

15. The appeal site amounts to 56.5ha, and comprises three parcels of land<sup>6</sup>. Parcel A lies on the north side of the Flitch Way: it includes two fields and the house at Nos 27-29 Gilda Terrace. The land rises to the south-west, away from Pods Brook. Parcel B is the area of land between the Flitch Way and the A120. Two large fields are separated by a line of willows, and there are smaller fields on the eastern side where the land rises relatively steeply in places away from Pods Brook and other watercourses. Tall hedgerows separate these smaller fields, and there is a copse on the southern side, close to a balancing pond operated by Anglia Water. There are several public footpaths across this part of the appeal site<sup>7</sup>. Parcels A and B are connected by a passage below a bridge on the Flitch Way. The fields in parcels A and B are in agricultural use, and 81% of this land is in grades 2 and 3a, meeting the definition of the best and most versatile agricultural land<sup>8</sup>. Parcel C is a narrow parcel of land, to the east of Pods Brook Road, which is unused with extensive vegetation cover around much of the boundary.

### **Planning History**

16. A hybrid outline/ full planning application was submitted in 2018 for residential development on that part of parcel A between Gilda Terrace and the Flitch Way<sup>9</sup>. Full planning permission is sought for a new access and 43 dwellings to the rear of Nos 1-25 Gilda Terrace, and outline permission is sought for up to 77 dwellings on the remainder of the application site. At the date of the inquiry the application had not been determined.

### **The Proposal**

17. As a consequence of the relocation of the school site, the Appellant advised that the proposal would provide up to 1500 dwellings. Whilst the description of development continues to refer to up to 1600 dwellings, at the inquiry the proposal was considered on the basis of the revised masterplan and parameter plans which take account of the reduction in housing numbers. A range of house types and tenures is envisaged<sup>10</sup>, and a planning obligation would provide for 30% of the dwellings to be provided as affordable housing<sup>11</sup>.
18. The masterplan shows housing on the western part of parcel A, with the primary school on the eastern part. Parameter plan 3 shows housing up to two storeys in height around a central area where it would be up to three storeys. Areas of lower (up to 35 dwellings per hectare (dph)), medium (up to 60dph) and higher density (up to 110dph) housing are shown on parameter plan 4, with density increasing away from the edge of parcel A. The house at Nos 27-29 Gilda

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<sup>6</sup> The parcels are identified in the Planning Statement of Common Ground (CD6.7), paras 3.2-3.11.

<sup>7</sup> Public rights of way on and in the vicinity of the site are shown on the plan at CD9.55.

<sup>8</sup> CD4.4, Appendix 17.1.

<sup>9</sup> Application ref 18/01065/OUT: see CD9.28.

<sup>10</sup> Document A3, para 5.2.6 (iv).

<sup>11</sup> CD9.46, Schedule 3.

- Terrace would be demolished to enable construction of a vehicular access from Rayne Road (Plan C).
19. It is intended that the local centre would be built on the eastern side of parcel B, close to the vehicular access from Pods Brook Road (Plan B). This access would involve the formation of a new roundabout junction. Employment units would also be on this side of the land, but close to the southern boundary with the A120 slip road. These units would provide office accommodation, with the potential for some workshops<sup>12</sup>. Housing would be provided across much of the rest of parcel B. Higher density housing is envisaged in the vicinity and to the west of the local centre, and in part of this area parameter plan 3 shows building heights of up to four storeys. Elsewhere housing would be up to two and three storeys in height. Areas of open space and planting would be provided around the perimeter of the land, including playing fields at the western end close to Naylinghurst: an area of at least 17.65ha of open space would be secured by a planning obligation. Planting would be strengthened alongside the Flitch Way: at completion of the scheme it is intended that there would be a buffer of over 5m depth along 98.5% of the north and south edges of the Flitch Way, over 25m along 60% of the edges, and over 35m along 40% of the edges<sup>13</sup>. A bus gate below the Flitch Way would enable a bus service to be routed through the appeal site. Parcel C would be an area of public open space.
  20. It is intended that the development would be carried out in six phases (parameter plan 2), with the first phase involving the housing and school on parcel A.
  21. The scheme proposes alterations to three existing junctions: the roundabout junction of Rayne Road with Pods Brook Road and Springwood Drive (Plans D-F), the light controlled junction of Pods Brook Road with Aetheric Road and Pierrefitte Way (Plan G), and the A120 east bound off-slip road and roundabout junction with Pods Brook Road (Plan H). A cycleway on the east side of Pods Brook Road would provide a link between the Flitch Way and the Meadow Rise development. These works and those to form the site accesses are provided for by Schedule 8 of the planning agreement. Schedule 6 provides for a scheme of works to be undertaken to the Flitch Way itself.

## **Planning Policy and Guidance**

### ***The Development Plan***

22. The Development Plan comprises the Braintree District Council Local Development Framework Core Strategy (CS – CD2.2), the saved policies of the Braintree District Review Local Plan (RLP – CD2.1), the Essex Minerals Local Plan (MLP – CD9.16) and the Braintree District Council Proposals Map.

### ***The Core Strategy***

23. The CS was adopted in 2011, and it covers the period up to 2026. The spatial policy statement sets out twin objectives to preserve and enhance the character of the rural heartland of the District including its countryside and villages, and to concentrate the majority of new development and services in the main towns,

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<sup>12</sup> Document A3, para 4.3.4.

<sup>13</sup> Document A14, para 2.2.30; Document A15, appendix R3.

- new growth locations at Braintree and Witham, and in the key service villages<sup>14</sup>. The most important main town is identified as Braintree, Bocking and Great Notley. Rayne is not a key service village, but is listed in the settlement hierarchy as one of the other villages<sup>15</sup>.
24. Policy CS1 provides for the delivery of a minimum of 4,637 dwellings between 2009 and 2026. These dwellings are to be located within the main towns, on specified mixed-use regeneration sites, at new mixed-use growth locations, and within key service and other villages. The growth location identified at Braintree is land off Panfield Lane to the north-west of the town (CS inset 1a), and it does not include the appeal site. Development outside town development boundaries, village envelopes and industrial development limits is to be strictly controlled to uses appropriate to the countryside (Policy CS5). The appeal site lies outside the development boundary for Braintree and the village envelope for Rayne<sup>16</sup>.
25. Policy CS4 is concerned with employment: it includes an aim to provide a minimum of 14,000 net additional jobs between 2001 and 2026. The main locations for employment development include existing employment sites within the development boundaries of Braintree, and the mixed-use and strategic sites specified in the CS. Policy CS2 sets out requirements for affordable housing: in the urban ward of Braintree & Bocking a target of 30% provision applies, with a threshold of 15 dwellings or 0.5ha. Accommodation for gypsies and travellers is the subject of Policy CS3, which seeks provision for an additional 40 pitches by 2021.
26. Policy CS7 promotes accessibility. Development should take place in accessible locations to reduce the need to travel, sustainable travel will be encouraged, and sustainable transport links are to be improved. One of the key transport projects listed in the accompanying table involves capacity improvements at the Pods Brook Road/ Rayne Road roundabout. Amongst other provisions, Policy CS8 seeks to protect the best and most versatile agricultural land, and requires proposals to have regard to the character of the landscape. Proposals should also respect the local context where development affects the setting of historic buildings and conservation areas (Policy CS9). New development should make appropriate provision for open space: the Appellant has calculated that Policy CS10 would require the provision of 15.85ha of public open space<sup>17</sup>. Policy CS11 explains that the Council will work with other parties to ensure the provision of infrastructure services and facilities.

### ***The Local Plan Review***

27. The LPR was adopted in 2005, and the plan period extended from 1996 to 2011. Policy RLP 2 seeks to restrict development to the areas within town development boundaries and village envelopes. Outside these areas countryside policies apply. Policy RLP 78 which covered development in the countryside has been replaced by CS Policy CS5. New residential development should seek to achieve mixed communities, involving different house types, tenures and uses where appropriate (RLP 7). Policy RLP 10 is concerned with residential density. Amongst other considerations, density and massing should be related to public

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<sup>14</sup> CD2.2, para 4.15.

<sup>15</sup> CD2.2, appendix 3.

<sup>16</sup> See inset 1 for Braintree and inset 46 for Rayne, CD2.1.

<sup>17</sup> Document A3, para 6.5.2.

- transport accessibility, shops and services, and the site's characteristics. Open space should be made available in new residential development. Development for employment uses is to be concentrated on suitable sites in towns and villages where housing, employment and facilities can be provided close together (RLP 27).
28. Policy RLP 80 requires that development proposals are not detrimental to distinctive landscape features and habitats: development which would not successfully integrate into the local landscape should not be permitted. There should not be an adverse effect on protected species (Policy RLP 84) and the retention and planting of native trees and hedgerows is encouraged (RLP 81).
29. Policy RLP 90 is concerned with the layout and design of development. The criteria against which proposals should be assessed under this policy include requirements to be sensitive to the need to conserve local features of historic and landscape importance, and to be in harmony with the character and appearance of the surrounding area. There is support for the preservation and enhancement of conservation areas and their settings in Policy RLP 95, and for the settings of listed buildings in Policy RLP 100.
30. Major proposals which are likely to generate significant levels of travel demand should only be permitted where public transport services exist or there is the potential for the development to be well served by public transport (Policy RLP 53). The LPR also includes policies which require pedestrian networks and cycle routes to be incorporated in the design and layout of development proposals (Policies RLP 49 & 50). The Flitch Way is a former railway line: Policy RLP 140 stipulates that development which would prejudice the use of disused railway lines for recreational purposes should not be permitted. Opportunities will be sought to provide links between linear parks and proposals for development on adjacent land.

### ***The Minerals Local Plan***

31. The MLP was adopted in 2014, and covers the period 2012-2029. The western part of the appeal site lies within a mineral safeguarding area for sand and gravel where Policy S8 applies. This policy seeks to avoid surface development sterilising or prejudicing the effective working of mineral resources. Where sand and gravel resources of economic importance exist on sites over 5ha, consideration should be given to extraction of the minerals prior to surface development taking place.

### ***The Braintree Local Plan***

32. The District Council is preparing the Braintree Local Plan (the emerging Local Plan – ELP (CD7.1)). The Publication Draft of the ELP was submitted for examination in October 2017, and comprises two sections. Section One has been prepared by Braintree DC, working in conjunction with Colchester BC and Tendring DC (the North Essex Authorities - NEAs), to address strategic issues in North Essex, whilst Section Two is concerned with Braintree alone. Hearings in respect of Section One took place during the first half of 2018. Following those hearings, the Local Plan Inspector wrote to the NEAs about the steps necessary for Section One of the Plan to be made sound and legally-compliant (CD7.3). Particular concern was expressed about the proposed garden communities: whilst the Inspector has not expressed the view that garden communities have no role to

- play in meeting development needs, he considered that the proposals contained in the ELP are not adequately justified and have not been shown to have a reasonable prospect of being viably developed<sup>18</sup>.
33. Three options for progressing the ELP were put forward by the Inspector: option 1 would involve removal of the garden communities proposals from Section One and commitment to a partial revision; option 2 would involve further work on the evidence base and sustainability appraisal before the Section Two examination; and option three would be to withdraw Sections One and Two from examination, resubmitting them after further work on the evidence base and sustainability appraisal. Both Braintree and Tendring have resolved to pursue option two<sup>19</sup>. Colchester has also stated its intention to carry out the further necessary work, but refers to an alternative option, which would show any Colchester & Braintree Borders Garden Community planned for the later years of the housing trajectory, and proposals for that and a Colchester & Tendring Borders Garden Community being dependent on the commitment of necessary strategic infrastructure (CD9.38). The District Council acknowledges that option two would require suspension of the examination of Section One of the ELP, with examination of Section Two deferred until this had been completed. At the inquiry, the District Council's planning witness expressed the view that the ELP could be adopted by 2021, although he understood that there had as yet been no discussion on the timetable for the additional work involved as referred to in the Inspector's further letter of 2 August 2018<sup>20</sup>.
34. Policy SP 2 sets out a spatial strategy for North Essex, in which existing settlements are to be the principal focus for additional growth. Three new garden communities are also intended to be developed: west of Braintree, Colchester/ Braintree Borders, and Tendring/ Colchester Borders<sup>21</sup>. The garden community west of Braintree is proposed for land to the north-west of Rayne, whereas the appeal site lies to the east of this settlement. Sufficient deliverable sites or broad locations are to be identified in Braintree to provide at least 14,320 dwellings during the plan period (Policy SP 3). Policy SP 7 expects that 2,500 of these dwellings would be provided within the garden community west of Braintree<sup>22</sup>.
35. Development boundaries are shown on the proposals map<sup>23</sup>. The appeal site lies outside the boundaries of Braintree and Rayne. Policy LPP 1 specifies that outside boundaries development should be restricted to uses appropriate to the countryside. Green buffers are intended to be established under Policy LPP 72: four areas are listed, none of which includes the appeal site. However the greater part of the site falls within a green buffer between Braintree, Great Notley and Rayne on the proposals map (CD7.5). The District Council explained that the omission of this area from the text of the policy was an oversight<sup>24</sup>, and that the green buffer was proposed as shown on the proposals map. Residential development (other than replacement dwellings), employment development,

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<sup>18</sup> CD7.3, para 130.

<sup>19</sup> Document L6, para 4.47.

<sup>20</sup> CD7.11, para 40.

<sup>21</sup> The locations of the proposed garden communities are shown on maps 10.1-10.3 & 10.5 in CD7.1 (Section One).

<sup>22</sup> The total number of dwellings for this garden community would be 7-10,000, with provision extending beyond the plan period.

<sup>23</sup> Extracts from the proposals map are included in CD7.1 & 7.5.

<sup>24</sup> CD9.28, section 2.

schools and local centres are not included in the limited categories of uses considered appropriate in green buffers. Development which is necessary in these locations should have regard to the local landscape character, and minimise coalescence and consolidation between built areas. Policy LPP 17 explains that the 14,320 (minimum) new homes proposed are to be located primarily in the main towns, key service villages and eight strategic growth locations. Three strategic growth locations are proposed at Braintree: land east of Broad Road, the former Towerlands Park site, and Panfield Lane. These lie on the northern side of the town and are included within the development boundary. Policy LLP 36 provides for up to 30 traveller pitches<sup>25</sup> at strategic growth locations and garden communities, or through the application process.

### ***Landscape character assessments***

36. In the Essex Landscape Character Assessment, the appeal site lies within landscape character area (LCA) C6 – Blackwater/ Brain/ Lower Chelmer Valleys<sup>26</sup>. The key characteristics of LCA C6 include shallow valleys, predominantly arable farmland with well-hedged medium to large fields, narrow valleys with undulating sides (the Brain and Upper Blackwater), and extensive linear poplar and willow plantations. At District level, in the Braintree, Brentwood, Chelmsford, Maldon & Uttlesford Landscape Character Assessments, virtually the whole of the site lies within LCA A12 – Pods Brook River Valley<sup>27</sup>. Key characteristics are identified as a narrow shallow valley, a predominantly pastoral and heavily wooded landscape, and wet meadows. Towards the edge of Braintree woodland cover reduces and the valley is more open with large arable fields.

### ***Other policies and guidance***

37. Relevant supplementary planning documents and planning guidance are listed in the planning statement of common ground (CD6.7, para 1.16). In advance of the adoption of the Essex Coast RAMS, Natural England seeks the provision of suitable accessible natural greenspace (SANGs) in large-scale residential developments, and a financial contribution towards the funding of off-site strategic measures. I have also had regard to national planning policy and guidance, in particular that contained in the National Planning Policy Framework (NPPF), and the Planning Practice Guidance (PPG).

### ***Agreed Matters***

38. Two statements of common ground were submitted<sup>28</sup>. The planning statement of common ground (CD6.7), agreed between the Appellant and the District Council, covers the following matters:

- Consultation responses to the planning application.
- Planning policies.
- The ES.

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<sup>25</sup> The committee report says that the number of pitches is to be increased to 31 following an updated survey.

<sup>26</sup> CD8.5: a plan showing the LCA is on page 97.

<sup>27</sup> CD8.6: a plan showing the appeal site in relation to LCA A12 is at figure 3 of Document A13. A review of the district assessment for Braintree in 2015 (8.22) included no modifications concerning LCA A12.

<sup>28</sup> Paragraph 1.2 of CD6.7 refers to the intention to produce a statement of common ground relating to the ES. In the event, no such statement of common ground was produced.

- A description of the site and its surroundings.
  - There is not a five years' housing land supply in Braintree<sup>29</sup>.
  - Having regard to paragraphs 195 & 196 of the NPPF, if the public benefits of development do not outweigh any harm to a designated heritage asset, the tilted balance of paragraph 11(d)(i) will not apply.
  - Apart from Rayne Conservation Area and Naylinghurst (about which there is dispute), the proposal would not harm the significance or setting of any other heritage asset.
  - If there would be any harm to Rayne Conservation Area and Naylinghurst, it would be less than substantial.
  - The policy compliant level of affordable housing is 30%.
  - The LPA has no outstanding objections concerning flooding, drainage, archaeology, noise levels, and mineral resources, subject to the imposition of appropriate conditions.
  - The LPA has no objection to the loss of agricultural land, and the provision of a local centre, and it is not advancing a case against the proposal on the ground of prematurity.
  - Matters in dispute between the Appellant and the LPA are<sup>30</sup>: the approach to the planning balance, whether there would be any harm to Rayne Conservation Area or Naylinghurst, whether the proposal would adversely affect the character and appearance of the area, and whether the proposal would ensure a good standard of amenity and a high quality living environment.
  - The Appellant agrees to provide the infrastructure necessary for the long-term sustainability of the development.
39. The highways statement of common ground (CD6.8) was agreed between the Appellant, Essex County Council (the Highway Authority), and Highways England. It covers the following:
- The additional information provided by the Appellant's transport consultants.
  - The provision of a cycleway between the priority junction serving Broomhills Industrial Estate and Guernsey Way and the roundabout at the junction of Pods Brook Road/ Rayne Road/Springwood Drive.
  - Planning policy in the NPPF relating to transport.
  - Having regard to the Journey Time Analysis<sup>31</sup> and the mitigation measures proposed, the Highway Authority confirms that: the development takes the opportunity from existing and proposed infrastructure, and from changing transport technology and usage, to provide high quality walking and cycle networks, and to facilitate access to high quality public transport; there would

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<sup>29</sup> The figures relating to housing land supply given in paragraphs 5.1 & 5.4 of the statement of common ground have been superseded by the five year supply assessment at Appendix 3 of Document L9.

<sup>30</sup> Section 4 of the planning statement of common ground includes the ES, highways, the mix of uses, and provision of a planning obligation as matters in dispute. These matters were not pursued by the District Council at the inquiry.

<sup>31</sup> Appendix 1 to CD6.8.

be no significant impact on highway safety; and the residual cumulative impacts on the road network should not be severe. The Highway Authority does not object to the proposal.

- Highways England recommends that conditions be attached to any planning permission granted<sup>32</sup>.

### **The Case for the Appellant**

*The material points are:*

#### ***The approach***

40. In order to allow the appeal, material considerations must indicate otherwise than determining it in accordance with the Development Plan. It is acknowledged that there is conflict with the Development Plan as a whole, most obviously with Policies RLP 2 (town and village development boundaries) and CS5 (countryside) which together establish development boundaries and strictly control development outside of them. In addition it is accepted that there is conflict with Policy CS1 in relation to landscape character, and elements of Policy CS8 in relation to the loss of the best and most versatile agricultural land. Material considerations indicate that permission should be granted despite this conflict, and the most important material consideration in this case is national policy in the revised NPPF.

#### ***Housing land supply***

41. The Council's planning witness has explained that as at 30 June 2018 it can demonstrate only 3.91 years supply of deliverable housing sites, a shortfall of land for 1,330 homes. This is nearly double the shortfall identified at 31 March 2018, which was 737 homes<sup>33</sup>. There has been an increase in housing need from 716dpy (the OAN underpinning the ELP) to 835dpy, following the introduction of the standard methodology. Taking into account paragraph 73 of the NPPF, since the development plan policies on the subject are more than five years old, and read together with the definition of local housing need in the glossary, this is the appropriate approach to use in this appeal. Moreover there has been significant under delivery of housing over the previous three years, which means that a 20% buffer is to be applied. The consequence of the failure to be able to demonstrate a five years supply of deliverable housing sites is that the policies which are most important for determining the proposal are out-of-date, and the terms of NPPF paragraph 11 (d) apply.

#### ***Most important policies***

42. The most important policies are those that go to the principle of development (e.g. that the site is outside the development boundaries) rather than the detail (e.g. what is an appropriate density). They are: Policies RLP 2 (Town Development Boundaries and Village Envelopes), RLP 80 (Landscape Features and Habitats), RLP 95 (Preservation and Enhancement of Conservation Areas), RLP 100 (Alterations and Extension and Changes of Use to Listed Buildings, and their settings), CS5 (The Countryside), CS8 (Natural Environment and

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<sup>32</sup> The highways statement of common ground refers to Highways England's consultation response which includes suggested conditions (CD3.42).

<sup>33</sup> CD6.7, paras 5.1-5.4.

Biodiversity), CS9 (Built and Historic Environment), and CS1 (Spatial distribution). Policy RLP1 40 (linear parks and disused railway lines) might potentially be added to the list of most important policies. This policy presumes against development which would prejudice the use of disused railway lines such as the Flitch Way; the Appellant considers that prejudice is to be read as meaning in the sense of impinging upon the use of the Flitch Way in some physical manner. However if prejudice is taken to include harming the experience of users of the Flitch Way (e.g. by spoiling views from it by changing views of countryside to views of housing) then RLP 140 would be a most important policy in NPPF terms as it would preclude or inhibit housing development alongside this route.

### ***Designated heritage assets***

43. Under NPPF 11(d)(i) the question which arises next is whether the proposed development would cause harm to the significance of Naylinghurst, a grade II listed building, and/ or Rayne Conservation Area. The Council does not allege substantial harm to either heritage asset, and if there would be any harm it would fall to be assessed against paragraph 196 of the NPPF. The development would not erode the significance of either asset, because the affected areas do not make meaningful contributions to significance itself.

### ***Naylinghurst***

44. Naylinghurst is located beyond the western boundary of the appeal site. The nearest proposed housing would be about 200m from the building,<sup>34</sup> and there would be a line of new planting between the curtilage of the listed building and the new development. Land to the north-west, west, south-west, south and south-east of the listed building would remain open and to a large extent unaffected by the proposed development. Naylinghurst is a grade II listed building. The list entry makes no express mention of setting, and the Appellant's heritage witness was clear that the special interest of the house relates primarily to its original 17<sup>th</sup> century timber frame and floorplan. Insofar as Naylinghurst has wider historic significance, it is as a former homestead/modest farmhouse<sup>35</sup> which illustrates a former way of agricultural life<sup>36</sup>. Although Naylinghurst is rooted in the farmland with which it was formerly associated in an abstract sense<sup>37</sup>, the removal of old field boundaries and changes to its garden curtilage mean that its agricultural surroundings are no longer connected to it in the way they once were. The development of industrial farming has caused the removal of the historic field boundaries shown on the 1840 tithe map<sup>38</sup>, and resulted in a form of agricultural use of a totally different scale, form and appearance from that enjoyed by the historic homestead.
45. From within the curtilage it is difficult to appreciate the significance of the building as a 17<sup>th</sup> century homestead. The considerable changes which have already occurred within that part of the setting, namely the additions of the Edwardian tightly rendered and tiled parts of the building, a modern conservatory, and flowerbeds, have obscured both its architectural and historical

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<sup>34</sup> Document A1, para 5.5.

<sup>35</sup> Document L1, para 4.

<sup>36</sup> Document A1, para 4.7.

<sup>37</sup> Document A1, para 4.9.

<sup>38</sup> Document A2, Appendix 2.

significance. If it is not possible to visually appreciate the significance of the building so close, then it is unlikely that a viewer is able to discern that significance further away from places within the appeal site which lie within the setting of the listed building. There are no significant outbuildings capable of holding modern agricultural machinery, and any connection with the surrounding land is remote. Furthermore the historic farmholding, which the tithe maps show included some but not all of the appeal site<sup>39</sup>, has been subdivided by the construction of the railway line (now the Flitch Way), and in the 20<sup>th</sup> century two major trunk roads, a major junction, and part of Great Notley have been built on what were once Naylinghurst's fields.

46. While the views out from Naylinghurst are relevant to an extent, and some views would change as a result of the proposed development, such changes would entirely relate to the eastern views, which are from the more modern (Edwardian) parts of the house rather than the 17<sup>th</sup> century core. The proposed development would involve change to land within part of the setting of Naylinghurst, but the contribution of that part of the setting to the significance of the listed building and/ or to the ability to appreciate that significance is neutral or negligible at best. If this is accepted, then it follows that to the extent that the proposed development would take place on part of the setting of the listed building this would not erode its significance. The house would remain seemingly an island in the fields, with open fields to the north-west, west, south-west, south and south-east, and capable of being observed and appreciated against an agricultural backdrop. The architectural and historical significance of its 17<sup>th</sup> century structure would be unaffected. The circumstances of Clapbridge Farmhouse<sup>40</sup>, a grade II listed building to the north of the Flitch Way which is now surrounded by housing, shows that a heritage asset can sustain change to its setting without detracting from what is significant about the building.

#### *Rayne Conservation Area*

47. Rayne Conservation Area forms part of a linear settlement along the line of an old Roman Road (now Rayne Road) and contains several listed buildings. The conservation area is adjoined to its west and south by the rest of the village which comprises relatively modern and some quite recent development, and its heritage significance does not depend upon it being separate and distinct from more modern housing. Nor do the fields that comprise the appeal site, the boundary of which is some 375m at its closest to the boundary of the conservation area, contribute to the significance of the conservation area. The nearest homes in the appeal scheme would be some 500m away from the boundary of the conservation area<sup>41</sup>. The heritage significance of the conservation area would be exactly the same with the appeal scheme in place as it is now.

#### *The Church of All Saints*

48. The church is a prominent historical building in Rayne: it is an essentially Tudor structure which acts as a focal point for the community, and is a place of considerable importance. The setting of the Church of All Saints is extensive,

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<sup>39</sup> See figure 1 in Document A1 and map 4 in Document L2.

<sup>40</sup> The location of Clapbridge Farmhouse is shown on map 1, Document L2.

<sup>41</sup> Document A1, para 5.14.

including agricultural land to the south, east and north<sup>42</sup>. The closest houses would be about 450m from the church, and the proposal would be a small change within its setting, which would not affect important views. There would be no change to the significance of this listed building as a consequence of the proposed development.

### *Conclusion on heritage assets*

49. There would be no harm to the significance of the listed buildings and the conservation area from the appeal proposal. If the Secretary of State disagrees, the degree of harm (according to the Council) would be moderate less than substantial harm to the significance of Naylinghurst and less than substantial harm at the lower end of the scale to the significance of Rayne Conservation Area<sup>43</sup>. Mr Patel's evidence is that the outcome of weighing these limited degrees of heritage harm against the many public benefits of the proposal is that the benefits readily outweigh any such harm. It is the Appellant's case that applying paragraph 196 of the NPPF does not provide a clear reason for dismissing the appeal under paragraph 11(d)(i).

### **Claimed harm**

50. What should be put into the tilted balance are real and tangible adverse impacts, such as harm to landscape, harm to visual amenity, harm to the countryside. It is the impacts themselves when considered in the context of the policies in the NPPF that are weighed in the tilted balance rather than breaches of the associated development plan policies.

### *Landscape*

51. It is argued by the Council and NBGAG that the appeal site is a valued landscape. The Appellant disagrees, but even if it were a valued landscape, paragraph 170 of the NPPF is not a restrictive policy for the purposes of paragraph 11(d)(i) since it is not referred to in the exclusive list of footnote 6.
52. Paragraph 170(a) of the NPPF provides that a valued landscape is to be protected in a manner commensurate to either its statutory status or its identified quality in the development plan. However this site has no statutory status and is not identified as having any particular quality in the development plan. The correct approach for such areas of undesignated landscape must be to give weight to the impact which the development would have on the character and beauty of the countryside, but this is a lower order of weight given that the policy requires only recognition of such matters, not protection and enhancement.
53. The Council says that because the Government did not discuss this issue in the consultation process it cannot have meant to change policy<sup>44</sup>, but the qualification in paragraph 170(a) is an addition to the NPPF and must have been inserted for a reason. If this interpretation is not accepted, and the body of case-law and good practice developed under the previous NPPF falls to be applied, even then this site should not be regarded as a valued landscape. There is not sufficient cause to characterise the site and its surroundings as a landscape

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<sup>42</sup> Document A1, para 4.22.

<sup>43</sup> Document L1, paras 6.13 & 6.18.

<sup>44</sup> Document L8, para 4.5.

- which is out of the ordinary, which is the key consideration. Neither the popularity of the site, nor the level of objections to its development, should stand as evidence of value. The Flitch Way is a good example of the point, it is most certainly highly valued by local residents but this does not make it a valued landscape. Whatever harm is found would be caused to the landscape should not be given any additional weight on the grounds that the harm would be caused to a valued landscape.
54. There would be a substantial impact on the landscape of the appeal site itself, which has been assessed as being of medium-high sensitivity<sup>45</sup>. Although particular landscape features such as hedgerows and tree cover would be retained and strengthened, the loss of the open fields cannot be mitigated in any meaningful sense. An impact such as this is the unavoidable consequence of building houses on fields. That this is doing something to help address the housing land shortfall, is a point which should temper the weight to be given to this impact.
55. The Council's landscape witness assessed the susceptibility of the Pod's Brook River Valley Landscape Character Area (LCA) A12, which contains virtually the whole of the appeal site, as high, whereas the Appellant's landscape witness took the view that it should be medium<sup>46</sup>. Mr Neesam (the Council's witness) accepted in cross-examination that if the Secretary of State agreed with the Appellant just on this point, this would reduce the significance of the effect (at year 15), such that it would no longer be significant when utilising his scale of effects.
56. The correct approach to susceptibility under the Guidelines for Landscape and Visual Impact Assessment (GLVIA – CD8.1)<sup>47</sup> is to look at the ability of the landscape receptor (here LCA A12) to accommodate the proposed development without undue consequences for the maintenance of the baseline: that is whatever has led it to be identified as a character area in the first place. As GLVIA explains<sup>48</sup> this involves consideration not of some generic type of development but rather of the proposed scheme itself, which must include the proposed site. The features which are identified in the Council's evidence as leading to a high susceptibility (generally open views, upstream from Braintree there is an overall sense of tranquillity<sup>49</sup>) are features which relate to the area to the north of Rayne Road, which has a markedly different character than the area to the south in terms of both open views and tranquillity. The more enclosed area to the south of Rayne Road, which includes the appeal site, cannot have the same susceptibility to the change that would be brought about by this development as the area to the north (were the appeal site north of Rayne Road).
57. There are differences in the assessment of the magnitude of effect on the LCA. The Appellant's landscape witness assessed this as medium at year 15, whereas the Council's witness saw it as high. As with susceptibility, the input on magnitude has the potential to drive a considerably different conclusion as to the significance of the landscape effects. The greatest difference on this point

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<sup>45</sup> Document A15, Appendix R1.

<sup>46</sup> Document A15, Appendix R1.

<sup>47</sup> CD8.1, para 5.40.

<sup>48</sup> CD8.1, paras 5.40 - 5.42.

<sup>49</sup> Document L3, paras 5.4.8 & 5.4.9.

related to the geographical extent of the area over which the landscape effects would be felt. The Council argued that the landscape effects would be perceived up to 1km from the site, whereas it is the view of the Appellant's witness that they would be considerably more limited in extent.

### *Visual effects*

58. The site is visually contained, and there is relatively limited visibility from points beyond the site boundary<sup>50</sup>. This means that in the main the impacts would be experienced by people walking on public rights of way through the site or on the Flitch Way which bisects it. The overall effect on people using the Flitch Way would not be significantly harmful at 15 years after completion (i.e. giving planting a reasonable opportunity to mature and be effective). The overall experience is kinetic by nature as people walk or cycle along the Way. Even if it is concluded that the points at which one can enjoy clear views across open fields are more striking than the enclosed sections, the availability of such open views along the route is a relatively small proportion of the whole<sup>51</sup>, and the predominant characteristic of the experience is where the Way is more enclosed. If the predominant characteristic of the experience of using this part of the Flitch Way is of a more enclosed nature, then the likelihood that the proposed development would have extensive depths of planting to either side of the Way<sup>52</sup> means that although the overall experience would change it would not do so in an uncharacteristic manner. Whilst there would be adverse visual impacts to be placed in the tilted balance, the issue is the degree and thus the weight of such impacts.

### *Separation*

59. The Appellant does not accept that the development would lead to Braintree and Rayne coalescing in either actual or perceived terms. By far the largest proportion of people travelling between the two settlements would do so along Rayne Road. Here there would be a reduction of about 45m between the urban edges<sup>53</sup>, and neither actual coalescence nor any real difference in the ability to distinguish between Rayne from Braintree. There would be some adverse impact on the perception from the Flitch Way of Rayne being a distinct village standing apart from the town of Braintree, but accepting that people would not be able to read Braintree and Rayne as distinct places would mean that open land outside the built-up area boundary of the village should not be considered to be part of the area which helps to separate Rayne from Braintree. This is land classified as countryside by the Development Plan. The Council refers to fringe uses on this land, but in the Green Belt, which is land which prevents neighbouring towns from merging, paragraph 141 of the NPPF encourages land to be put to such uses. Moreover the analysis required by paragraph 11(d)(ii) of the NPPF involves considering the impact against the policies in the Framework taken as a whole. There are no policies in the NPPF apart from Green Belt which make the avoidance of coalescence part of national planning policy, and the appeal site is not in the Green Belt.

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<sup>50</sup> Document L5, para 2.7.2.

<sup>51</sup> CD9.1, figure 20.

<sup>52</sup> Document A15, Appendix R3, and Figure 7 in Document A13.

<sup>53</sup> Measurements of the width of the gap between Braintree and Rayne are given on figure 8, Document A13.

### *The Flitch Way*

60. In addition to harm in terms of visual amenity, harm is alleged to the character of the Flitch Way itself arising from the works recommended by Sustrans<sup>54</sup>. The planning obligation which relates to the package of works recommended by Sustrans<sup>55</sup> has come about because the Appellant has sought to maximise the opportunities which the appeal scheme offers to deliver sustainable transport modes. This is entirely consistent with national policy in paragraphs 102, 108 & 110 of the NPPF, which refer to the importance of utilising existing infrastructure, and of promoting sustainable transport modes, in particular walking and cycling.
61. The chance to make best use of the Flitch Way is a clear benefit of the proposed development, which would seize the opportunity to use and improve what Essex County Council (who also are the landowners) have identified as a valuable key spine route and a potential flagship route<sup>56</sup>. In order to meet those objectives<sup>57</sup>, as well as to protect the Flitch Way from the increase in use and to encourage a further shift to active transport modes, both among the new residents of the development and the wider community, the Appellant has committed to fund a significant package of works to improve the route. The package would be finalised following consultation with Rayne Parish Council and the Friends of the Flitch Way before being submitted to Essex County Council and the District Council for approval. The Appellant would pay £1.25million for such of the recommended works (including resurfacing a 2.6km section) as are most directly related to the appeal scheme.
62. The key elements of the proposal are:
- i) An upgrade of the Flitch Way surfacing<sup>58</sup>, to enable all weather use.
  - ii) Upgrades to accesses from the Flitch Way into neighbouring residential areas to make these all weather and more convenient<sup>59</sup>.
  - iii) A dedicated route from the Flitch Way, along the edge of Pods Brook Road, up to Rayne Road which would connect through to Springwood Industrial Estate.
63. Resurfacing would not urbanise the Flitch Way: a surfacing material could be used which would strike the optimum balance between retention of a rural character and achieving a higher level of ease of use and accessibility<sup>60</sup>. However, should the Secretary of State conclude that the resurfacing of the Flitch Way, or some other aspect of the proposed works, is not necessary then the planning obligation would fall away in this respect.

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<sup>54</sup> See CD8.10.

<sup>55</sup> In CD9.46.

<sup>56</sup> CD9.11, para 8.3.

<sup>57</sup> CDA9, section 6.

<sup>58</sup> Although the Sustrans' report refers to taking this new surface to the A120, Mr Axon explained in answers to the Inspector that he considered it was only necessary from the perspective of the proposed development to lay a new surface to Rayne itself.

<sup>59</sup> Document A9, Figure MA9.

<sup>60</sup> Alternative surface treatments for cycle paths are discussed in CD9.3.

### *Pods Brook Road urbanisation*

64. The vehicular access to parcel B would be constructed from Pods Brook Road and between this point and the A120 roundabout junction to the south, the road would be widened, with localised removal of the existing bund and associated planting<sup>61</sup>. However most of the planting would be retained, and the road is already urbanised. It is likely that further planting would take place beyond the extent of the highway works, and after 15 years the effect would be negligible to slight adverse.

### *Design*

65. The Council criticises the higher density elements of the proposals and the proposed maximum four storey height. Underpinning the criticisms are concerns that these would be out of kilter with prevailing densities and heights in Braintree, and that the Appellant had not demonstrated how satisfactory amenity for residents of the development could be achieved with these densities and height. The maximum densities and height shown on the parameter plans would only need to be achieved over limited areas within the zones shown on those plans in order to achieve up to 1500 homes. They could be achieved alongside satisfactory residential amenity and comply with national policy. In particular, paragraph 123 of the NPPF provides that, where there is a housing land shortage, developments should make optimal use of the potential of each site. Insofar as height is concerned, paragraph 127 seeks to strike a balance between being sympathetic to local character while not preventing or discouraging appropriate change.

66. If it is concluded that the density and height parameters would lead to an unsatisfactory development, alternative parameter plans<sup>62</sup> have been submitted which would have the effect of reducing the maximum density to 50dph and height to three storeys. The Council accepts that these would resolve their concerns. Draft conditions have been agreed<sup>63</sup> which would limit the number of dwellings to 1460 if height alone were reduced, and to 1203 if density were reduced (irrespective of whether or not height were restricted).

### *Highways*

67. It is not the purpose of planning policy to prioritise the convenience of the car user. It is no part of the NPPF that new homes should not be built because there would be additional delays for car drivers in the peak hours. Chapter 9 of the NPPF aims to prioritise other modes of transport and the promotion of sustainable transport options. Paragraph 109 of the NPPF does deal with residual cumulative impacts on the highway network, but sets a high bar for the prevention of development on those grounds: impacts must be severe. There are certain local limitations on peak period travel: on Rayne Road eastbound there are queues of about 180m in the morning peak and about 480m in the afternoon peak, on Aetheric Road there is a queue of about 80m on the approach to the junction with Rayne Road in the afternoon peak, and queues of about 400m and 120m are

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<sup>61</sup> Document A12, paras 4.2.8-4.2.11.

<sup>62</sup> See Mr Vernon-Smith's Rebuttal Proof.

<sup>63</sup> CD9.44, draft conditions 8b, 8c & 8d.

present on Pods Brook Road northbound in the morning and afternoon peaks respectively<sup>64</sup>.

68. Nevertheless, the evidence of the Appellant's highways witness is that the proposed development would have a positive residual cumulative impact on mobility and sustainable modes of transport and would have minimal residual impacts on the road network, given the sustainability package and the evidence that people act to minimise inconvenience<sup>65</sup>. However he has also shown that even if the sustainability package had no effect at all and people did not act to avoid the effect of the unfettered demand from the proposed development, additional delays in the peak hours would be minimal. Even on this worst case there would not be a severe residual impact.
69. The sustainability package proposed by the Appellant takes full opportunity to maximise the excellent location of the site and to promote sustainable mobility and social inclusion. Amongst the measures which would be secured by the planning obligation are the appointment of a community concierge who would work to promote and support sustainable living and transport, and a high quality 15 minute bus service. Arriva has drawn up draft proposals for the delivery of the bus service, and anticipates that it would be viable during year 2 of the proposed development, although funding under the planning obligation would be provided for a period of 10 years. Works to facilitate greater use of the Fritch Way are referred to above (paras 61-63). Whilst various highway works are included in the overall mitigation package, it is the view of the Appellant's transport consultant that those to the Springfield Drive and Aetheric Road junctions are not necessary. He expressed a similar view in respect of the scheme to provide slip roads between the A120 and Millennium Way to the south-east of the town<sup>66</sup>.
70. The Appellant's traffic analysis is robust and is set out in the 2017 Transport Assessment and the subsequent Mobility Case and Journey Time Analysis<sup>67</sup>. It does not factor in unrealistic assumptions as to the effect of sustainable modes of movement. The approach to traffic generation<sup>68</sup> is based on the data obtainable through the TRICS survey database. It does not build in reductions as a result of mitigation and the sustainable modes package, but uses information from the National Transport Survey data to understand the purpose of journeys, and census data to understand the mode split, thereby producing more detailed projections of traffic movements arising from different trip purposes<sup>69</sup>. The trip rates, which take account of internal trips, including for primary school pupils<sup>70</sup>, are not too low, as suggested by NBGAG. The number of trips derived by the Appellant's highways witness is 687 in the morning peak and 819 in the afternoon peak<sup>71</sup>. Whilst these are 14% lower in the morning peak, they are 21% higher in the afternoon peak<sup>72</sup> than those in the October 2015 Transport Assessment for which NBGAG expressed support. Although the trip rates are

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<sup>64</sup> CD6.8, Appendix 1, para 5.

<sup>65</sup> Document A9, Section 3.

<sup>66</sup> In response to the Inspector's questions.

<sup>67</sup> CD3.38, CD4.5, Part B, Appendix M.

<sup>68</sup> CD4.5, Part B, Appendix M, para 68.

<sup>69</sup> CD4.5, Part B, Appendix M, paras 71-105.

<sup>70</sup> CD4.5, Part B, Appendix M, Mobility Case para 93.

<sup>71</sup> CD4.5, Part B, Appendix M, Mobility Case table 29.

<sup>72</sup> CD4.5, Part B, Appendix M, Table 29.

lower than the generic rates used for the Local Plan evidence base in the 2017 Assessment, and give lower numbers of trips, that work is a very different exercise which does not allow for detailed analysis of particular sites and development proposals. In allocating trips to the network, the distribution work previously undertaken by Journey TP in their September 2017 Transport Assessment has been used. No further details were requested and there is no reason to think that this work is not robust.

71. For the existing performance of the network, the Appellant relies on an analysis of the journey times along the most congested routes affected by the development in AM and PM peak hours. This suggests that congestion does exist in peak hours, with journey times from the Pods Brook Road/ A120 junction to the Rayne Road/ Aetheric Road Junction varying in the AM peak between 1min 54s and 8min 34s (mean 4min 22s), and varying in the PM peak between 1min 45s and 10min 16s (mean 5min 49s). The representativeness of the data is corroborated by the ATC surveys (conducted on five days)<sup>73</sup> and it was also confirmed by Mr Bradley from the Highways Authority. For future performance, the principal assessment of Rayne Road/Aetheric junction is set out in the Journey Time Analysis, with sensitivity tests in appendices A and B to that document. These indicate increases in journey times of 42-45 and 21-94 seconds on the Rayne Road (west) and Aetheric Road approaches to that junction. Together all of this evidence confirms that there would be no severe impact in the terms of paragraph 109 of the NPPF.
72. Any harm by way of additional delay for car journeys in the peak periods would be extremely limited. If there is any adverse impact to be placed into the tilted balance, at worst it could only be of little weight. The improvements to sustainable modes of travel are benefits of the proposals and should be placed on the positive side of the tilted balance.

### **Benefits**

73. The appeal scheme would make a worthwhile contribution to addressing the shortfall of housing land. It is anticipated that some 200–270 homes would be completed on the appeal site within the five years' period with many more in the ensuing years<sup>74</sup>. Kier Living, the proposed developer of the site, has indicated that it would anticipate the first homes being delivered within 18 months of permission being granted (six months earlier than the Appellant's planning witness) and a build out rate of 100-150 dwellings per year, which would give a range of 275-412 dwellings<sup>75</sup>. Although the Council had suggested that the delivery of the Millennium Slips highway scheme might cause delay to the delivery of housing, Highways England has agreed that 550 dwellings could be occupied before the slips scheme is completed<sup>76</sup>, and that scheme is programmed and funded. By the time a decision is made, the relevant five years' period would probably have advanced by another six months so that, should the appeal be allowed, even more homes would be delivered within what would then be the newly re-set five years' period.

<sup>73</sup> Document A10, Appendices at page 102, Graphs 17, 18.

<sup>74</sup> Document A16, 6.3.13.

<sup>75</sup> Letter dated 29 August 2018 in Document O5. 75-112 dwellings between 09/20-06/21 added to 100-150 for each of the 2021/22 and 2022/23 years.

<sup>76</sup> CD9.39, Email dated 13 September 2018 (15.35) from Highways England to Vectos.

74. The contribution of the proposed development to housing need is a substantial benefit to which significant weight should be given. This weight should not be reduced due to considerations relating to the ELP and recent efforts to improve the supply position. Although adoption of the ELP had been anticipated for autumn 2018, that programme is no longer achievable as a result of the Local Plan Inspector's letter of 8 June 2018 (CD7.3)<sup>77</sup>. The Council has subsequently resolved to pursue Option 2 suggested by the Inspector, with a view to bringing Section 1 of the Plan to examination as soon as possible while Section 2 is held back. However, as the Inspector warned, while one or more garden communities might be justified in the end, this will be subject to testing and he advised that simultaneously bringing forward three garden communities on the scale proposed in the ELP is likely to be difficult to justify<sup>78</sup>. This suggests that it must be at least likely that the spatial strategy of the ELP would have to be modified by the removal of at least one garden community before it can meet the tests of soundness. It is open as to whether any plan found sound in the future will include garden communities, or whether a different spatial strategy will be assessed to better meet the principles of sustainable development. It is uncertain when the ELP might be adopted, and it should not reduce the weight given to the provision of housing by the appeal proposal.
75. The Council has referred to past performance (in the narrow period of 2017/18 and first quarter of 2018/19) as improving supply, but there is nothing to connect this with future delivery, and the information in the five years housing land supply statement and the Council's acceptance that there has been significant under-delivery in the past three years all point the other way. As the work sheet produced by the Appellant's planning witness shows<sup>79</sup>, the level of housing which could be anticipated from the strategic growth locations (above, para 35) would not be capable of remedying the housing land shortfall.
76. Over the last five years there is an accumulated shortfall of some 536 affordable homes to which should be added an annual need from 2018-19 of some 212 dpy. In overall terms, the appeal scheme would deliver up to 450 affordable homes over time<sup>80</sup>. Significant weight should be afforded to this provision.
77. Turning to the other public benefits of the proposed development, the weight to be given to a number of the benefits of the proposed development should not be significantly reduced because they are required by policy. Paragraph 94 of the NPPF places importance on sufficient school places being made available and instructs planning authorities to give great weight to the need to create, expand or alter schools. Making provision for education is therefore necessary to meet the local needs arising from the development, but the building of houses does not create these children. If the proposed development does not go forward then those school places would not be provided and the total number of school places available would be lower unless someone else steps in to pay for them. National policy supports the provision of school places, which here is being achieved by the provision of a new primary school, as well as the financial contributions which

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<sup>77</sup> The views of the Local Plan Inspector are referred to above at paras 32 & 33.

<sup>78</sup> CD7.3, para 132.

<sup>79</sup> CD9.37.

<sup>80</sup> If the Secretary of State decides to reduce heights and/or densities and thereby overall housing numbers, the number of affordable units would drop to 438 or 371 respectively.

accompany it. This should be given significant weight when assessed against the policies in the NPPF.

78. Economic benefits include the provision of 151 full time equivalent directly generated jobs over the 10 year construction period, as well as an additional 123 jobs in the Braintree area<sup>81</sup>, and the payment of the New Homes Bonus. These should be given considerable weight when assessed against paragraph 80 of the NPPF, which says that planning decisions should place significant weight on the need to support economic growth and productivity.
79. The proposed development would deliver a package of mobility measures which would meet the requirements of national policy (above, paras 62 & 69). These should be given at least moderate weight pursuant to Chapter 9 of the NPPF.
80. The proposal would provide public open space and playing fields, whereas the site is currently inaccessible except for the public rights of way. The development would open it up and would provide at least 17.65ha of public open space. It would also contribute up to £1,414,255 to off-site sports facilities in the area<sup>82</sup> as well as £27,000 for improved cricket facilities at Rayne Village Hall. These should be given substantial weight when assessed against paragraph 96 of the NPPF.
81. The scheme includes the provision of an 800m<sup>2</sup> local centre and 0.65ha of Class B1 employment land. The shell of the local centre would be built out prior to the occupation of 500 dwellings and no difficulty is anticipated in finding a suitable tenant. In relation to the employment land, the Appellant is not willing to build out the employment buildings speculatively. A condition would secure a marketing strategy which would have to be approved by the Council and there is no reason to think that the employment provision would not be taken-up. These benefits should be given due weight when assessed against paragraphs 80 & 92 of the NPPF.
82. A gypsy and traveller site of at least 0.55ha would be provided within the site. This would assist in meeting need assessed in accordance with national policy and is a benefit of moderate weight.

### **Other points**

#### *Environmental information*

83. The Appellant has provided an ES. Subsequent Regulation 22 requests have been responded to and various parts of the ES have been updated. It is only necessary to have regard to the current versions of the documents comprising the ES. All of the documents comprising the ES have been subject to consultation. The ES is compliant with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, as is now accepted by the Council. NBGAG raised an issue about whether it needed to include an assessment of the broad package of measures for Fritch Way which the Appellant has committed to fund under a planning obligation. It did not; the form of those measures has yet to be finally established and will be subject to consultation and discussion, and if necessary environmental assessment, before they are finalised

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<sup>81</sup> CD4.4, ES Chapter 1, para 8.203.

<sup>82</sup> The Appellant's closing submissions refer to a sum of £1,441,255, but this is the total community facilities contribution in Schedule 2 of the planning agreement, including the £27,000 for cricket facilities.

and relevant consents are sought. In any event, on the basis of the available information, the view of the Appellant's ecology witness was that the measures described in the SUSTRANS report would not give rise to likely significant effects in terms of ecology and biodiversity, which was one of the main concerns raised by local objectors<sup>83</sup>. The significance of this is that the question is not whether it would have been better to include such an assessment in the ES, but rather whether the ES enables the Secretary of State to understand the likely significant impacts of the appeal scheme. It fulfils that purpose.

84. The Secretary of State is required to take account of the environmental information before him including the ES and Regulation 22 responses. However, he is also required to consider the other evidence before the inquiry, and, where differing assessments are reached (as is the case when one compares the judgements in the ES landscape and visual impact assessment (LVIA) with that of the Appellant's landscape witness), the Secretary of State will have to decide what weight to give to which assessment.

#### *Essex Coast RAMS*

85. A letter from Natural England concerns the emerging strategic approach for the Essex Coast RAMS (above, para 9). A condition and a draft planning obligation have been put forward in response<sup>84</sup>.

#### ***The overall planning balance***

86. Decisions on appeals are to be made in accordance with the development plan unless material considerations indicate otherwise. If it is concluded that the outcome of applying the titled balance weighs in favour of the proposals, then it would follow that national policy indicates that the appeal should be allowed. This would be a material consideration of the highest importance.
87. The weight to be given to the Development Plan policies which are deemed to be out of date by paragraph 11(d) of the NPPF must be tempered, regardless of their consistency with policies therein. In relation to the residual (density and height) policies (RLP 9, 10, 90 and part of CS 9) within the Development Plan, which are not amongst the most important policies for determining the appeal and so are not deemed to be out of date, these should be given weight depending upon their degree of consistency with the NPPF. However, they are each inconsistent to some degree with the approach now favoured in the NPPF, and their weight should be reduced as a consequence.
88. Policies RLP 9, RLP 10, and CS 9 require residential density to relate, amongst other things, to local character. The supporting text to RLP 10 suggests that developments between 30-50dph will be encouraged, and that greater densities may be acceptable at locations with good public transport close to town and local centres. This is not consistent with paragraph 123 of the NPPF which refers to making optimal use of the potential of each site where there is an existing shortage of land for meeting housing needs and provides a clear encouragement to look to higher than prevailing densities. As such the weight to be given to the policy should be reduced pursuant to paragraph 213 of the NPPF. RLP 90 connects height to local character and distinctiveness. Paragraph 217(c) of the

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<sup>83</sup> In response to the Inspector's questions.

<sup>84</sup> CD9.44, suggested condition 27; CD9.45.

NPPF does refer to being sympathetic to local character, but balances this with a need to avoid preventing or discouraging appropriate innovation or change. RLP 90 does not contain this balance and is, to that extent, inconsistent with the NPPF and should be given reduced weight.

89. Much has been made by NBGAG and local residents of the quantity of objections and the absence of letters of support for the proposals. However the voices which are not heard from are those of the people who would live here if only there were homes for them.
90. In order to begin to make inroads into addressing Braintree's housing land problem, planning permissions will have to be granted under the terms of the tilted balance in the NPPF. It is submitted that the case for approving the proposed development is a strong one and that the appeal should be allowed.

### **The Case for the Local Planning Authority**

*The material points are:*

#### ***Changes to the housing need position***

91. The latest national household growth projections were released towards the end of the inquiry. These are the starting point for calculating local housing need under the standard method. PPG was updated on 13 September 2018, and paragraph 2a-017 explains that the affordability adjustment is applied to take account of past under-delivery, and that it is not a requirement to specifically address under-delivery separately. The Council's current calculation of housing land supply, based on the standard method but published before the amended PPG, does factor past-under delivery into the calculation. Furthermore, the Government has said that it intends to consider adjusting the standard method and to consult on proposed changes. It is clear that the Council's housing land supply position is in a state of flux, and it has not yet been possible to calculate the correct position with any confidence. It is therefore assumed that the parties will need to provide submissions on their updated positions before a decision is taken on this appeal (and if there is significant disagreement, it may be necessary to re-open the inquiry to address the issues). The Council's case at present in respect of housing land supply refers to the position set out at the inquiry<sup>85</sup>.

#### ***Presumption that planning permission should be refused***

92. It is common ground that the appeal proposal does not accord with the Development Plan. It would be contrary to Policy CS1, which states that new housing will be located within the main towns, including Braintree, on various identified sites and locations, or on previously developed land and infill sites in Key Service Villages and other villages. The proposal would also be contrary to Policies RLP 2 and CS5, which taken together seek to confine development within the settlement boundaries, and to restrict development outside those boundaries to uses which are appropriate to the countryside. It is also common ground that the appeal proposal would conflict with Policy CS8, which seeks to ensure that development protects the best and most versatile agricultural land and has regard to the character of the landscape and its sensitivity to change.

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<sup>85</sup> Document L9, Appendix 3.

Consequently it also conflicts with Policy RLP 80, which provides that development that would not successfully integrate into the local landscape will not be permitted. The appeal proposal is also in conflict with a variety of other adopted local plan policies, including those relating to heritage assets and building heights and densities.

93. The conflict with the Development Plan means that the starting point for the determination of this appeal is that planning permission should be refused. In order to rebut that presumption the Appellant must show that there are other material considerations which tell in favour of the proposal, and which are of sufficient weight to overcome the conflict with the Development Plan.

### ***The need for more housing***

94. The revised NPPF introduced the standard methodology for calculating housing need, and redefined the circumstances in which a 20% buffer needs to be applied. The result of these policy changes is that the LPA has 3.91 years' supply, as demonstrated in the 30 June 2018 position statement<sup>86</sup>. The NPPF now more straightforwardly confirms that the absence of a five years' housing land supply triggers the presumption in favour of sustainable development in paragraph 11(d)(ii), subject to any policies referred to in 11(d)(i). That is a policy presumption within the NPPF, but it does not mean that Development Plan policies can be put to one side.

### ***The most important policies for determining the proposal***

95. The Appellant suggested that the weight to be given to those policies which are most important for determining the appeal would inevitably have to be tempered, in order to avoid a situation where policies which have created a shortfall in housing land supply are nevertheless given full weight. However it is not necessarily the case that the most important policies for determining the application are the ones which have caused the situation in the first place. The landscape and heritage policies of the Development Plan have not been responsible for the current housing land supply position. The current housing land supply position is primarily due to substantial increases in assessed housing needs over the last two years rather than the application of restrictive policies such as RLP 2 and CS5.
96. It does not matter whether particular policies are labelled as the most important or not, or whether it is those particular policies which have caused the lack of a five years' housing land supply. The real issue is whether the various material considerations outweigh the conflict with the Development Plan so as to indicate that planning permission should be granted. In carrying out that exercise it is not the case that any Development Plan policy must be given any particular amount of weight. The weight to be given to any ingredient in the planning balance is always a matter for the decision maker's judgement. Consideration of the weight to be given to out-of-date Development Plan policies is essential in order to decide whether, in the overall balance, the adverse impacts of the proposal will significantly and demonstrably outweigh the benefits. Out-of-date policies can still be given full or very substantial weight in appropriate

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<sup>86</sup> Document L9, Appendix 3.

circumstances. The degree of consistency with the NPPF will be an important consideration.

97. In setting out the weight which should be accorded to policies in the Development Plan, the Council has drawn on the conclusions reached by Inspectors in the Coggeshall, Steeple Bumpstead and Finchingfield appeal decisions<sup>87</sup>. The aim of Policy CS5 to protect and enhance the landscape character and the amenity of the countryside has been found to be consistent with the original version of the NPPF, and the policy has been accorded more than moderate weight<sup>88</sup>. The NPPF, at paragraph 170(b), still contains the requirement for planning decisions to recognise the intrinsic character and beauty of the countryside. There is no material change to national policy which should lead to a departure from the judgements reached in the previous decisions.
98. Policies CS8 and RLP 80 seek to avoid landscape harm and ensure that development respects character and sensitivity and integrates into the local landscape. Those aims are consistent with the NPPF. Policy CS8 was given full weight in the Finchingfield decision<sup>89</sup> and significant weight in the Coggeshall decision<sup>90</sup>. Policies RLP 9, 10 and 90 relate to various aspects of design, including the height and density of new development. They seek to ensure that new development respects and relates to the character of the surrounding area and reflects or enhances local distinctiveness, and remain broadly consistent with the NPPF. Policies RLP 95 & 100 seek to preserve listed buildings and conservation areas and their settings. Policy CS9 requires development to respect and respond to the local context, especially where development affects the setting of historic or important buildings or conservation areas. They have been given considerable weight due to the fact that they reflect important statutory duties. These policies of the Development Plan all deserve to be accorded significant weight, and a failure to comply with any of them should also carry significant weight in the overall balance.

### ***Harm to the significance of heritage assets***

99. The issue between the Council and the Appellant is whether the introduction of a large scale housing development in the settings of Naylinghurst and Rayne Conservation Area would cause harm to their significance. If there is such harm, it is common ground that it would be less than substantial and would therefore fall to be considered under paragraph 196 of the NPPF.

#### *Naylinghurst*

100. Naylinghurst is a 17<sup>th</sup> century timber-framed farmhouse, which was significantly extended in the Edwardian period. Its immediate surroundings consist of its domestic curtilage. Beyond this, the farmhouse is and always has been surrounded by agricultural land. With the advent of modern farming practices, field boundaries have been removed. That is not unusual. But there has been no substantial change to its setting. Whilst the field parcels may have been smaller in earlier times, Naylinghurst has remained surrounded by the land which was once farmed from the farmhouse. The existence of that land in continued

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<sup>87</sup> Document L7, Appendices 3-5.

<sup>88</sup> Document L7, Appendix 3 paras 59 & 101 and Appendix 5 para 59.

<sup>89</sup> Document L7, Appendix 5 para 58.

<sup>90</sup> Document L7, Appendix 3 para 60.

agricultural use contributes to the experience of the heritage asset, and to the ability to appreciate the purpose for which the building was constructed and the functional and economic associations it had with the surrounding land.

101. Historic England's Good Practice Advice in Planning Note 3 (GPA3 – CD8.8) explains that the potential for appreciation of the significance of a heritage asset may increase once it is interpreted or mediated in some way<sup>91</sup>. The area of land owned by Naylinghurst was never something that could be seen on the ground. However the parish map and subsequent tithe map show the area of land originally farmed from Naylinghurst, which covers a large part of the appeal site. There is also an historical link provided by the public right-of-way (PROW) which passes to the north of the farmhouse. This route can be clearly seen on the first edition of the OS map<sup>92</sup>, and roughly the same route can be walked today. A person walking on the PROW now can see Naylinghurst in the agricultural landscape it was built to serve: that is an experience which has not fundamentally changed since the track was first formed. The house is also clearly visible in views from the public footpath along the south-east side of the southern large field<sup>93</sup>.
102. Converting the agricultural land to the north and east, which contributes to the setting of the listed building, into a housing development with associated playing fields and open space would impair the ability to appreciate the historical association Naylinghurst has with its surroundings and damage its character as an island in the fields. The associated noise, activity and lighting would also negatively affect the experience of the heritage asset from its surroundings. Mitigation planting would screen the intrusive change, but would obscure the present open views across the agricultural landscape. Although the setting of Naylinghurst to the south and west would remain unchanged it does not mean that development to the north and east would not cause harm.

#### *Rayne Conservation Area*

103. The agricultural land to the east of Rayne forms part of the surroundings of the conservation area, and there is a degree of intervisibility between the conservation area and that land. The historic map evidence shows that the existence of that open agrarian landscape, and its relationship to Rayne, is longstanding. Its existence contributes to the character of Rayne Conservation Area as a distinct historical settlement. The Flitch Way is one of the key ways to access the conservation area on foot from Braintree. On that route, it is currently possible to look out across the longstanding agricultural landscape between the settlements. The experience of moving through the agricultural landscape allows a better appreciation of the character of the conservation area as a distinct and well-preserved linear settlement, which developed independently of Braintree. The change in land use from agriculture to an extensive housing development along the Flitch Way, or the closing off of views arising from mitigation planting, would detract from the contribution which the dynamic views make to the significance of the conservation area. It is recognised that this harm is at the lower end of the scale of less than substantial harm. Nevertheless, it must still be given considerable importance and weight.

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<sup>91</sup> CD8.8 pages 4-5.

<sup>92</sup> Document L2, map 5.

<sup>93</sup> See the photograph in viewpoint 1, Document L2.

## **Valued landscape and countryside**

### *Valued landscape - policy*

104. Paragraph 170 of the NPPF now refers to the protection and enhancement of valued landscapes (in a manner commensurate with their statutory status or identified quality in the development plan). The landscape in the vicinity of the appeal site is neither statutorily protected nor identified in the Development Plan, and the Appellant argues that it derives no protection from paragraph 170(a). However it is the manner of protecting valued landscapes that depends on their statutory status or identified quality in the development plan, not the fact of their protection. Thus a landscape with statutory status such as an area of outstanding natural beauty should be accorded more protection than a landscape without such status. But it does not follow that undesignated landscapes should receive no protection at all.
105. Any substantive change would have been expected to be mentioned in the consultation documents, but there was nothing in the proposals or the Government response to suggest a change of the nature suggested by the Appellant. Paragraph 170(a) relates to policy making as well as decision taking, but the Appellant's suggested interpretation is unworkable in the plan-making context. If planning policies can only protect and enhance undesignated valued landscapes if they have an identified quality in the development plan, this would prevent any new undesignated valued landscapes from being protected by planning policies. Valued landscapes have only existed as a planning consideration since the first version of the NPPF in 2012. The majority of local planning authorities do not have an adopted post-2012 development plan which might be expected to identify valued landscapes and their quality. Restricting valued landscapes to either statutorily designated landscapes or those identified in development plans would in practice very substantially reduce protection.
106. The better interpretation of paragraph 170(a) is that the question as to whether a landscape is valued or not still falls to be considered on a case by case basis. Where the landscape has a statutory status or is identified in the development plan, it must be given a level of protection which is commensurate with that status. Where the landscape is not designated or identified in a local plan, then if it is found to be valued within the meaning given by the case-law that had built up prior to the revised NPPF, it still deserves protection.

### *Valued landscape – assessment*

107. The key factor in the Council's assessment is the recreational value of the landscape, combined with its proximity to the urban area of Braintree. The landscape in the vicinity of the site provides a means of quickly and easily accessing and appreciating the countryside, which is out of the ordinary compared with other landscape areas around Braintree. The Flitch Way is an important part of this and is itself highly valued. But that is not the extent of the value of this landscape. Once residents have travelled along the Flitch Way to the west side of Pod's Brook Road, they are able to take advantage of the network of public footpaths crossing the appeal site, which offer different experiences to the Flitch Way. Local people have spoken not only of the recreational value of the landscape, but also of the importance of being able to see the open countryside, and enjoy a sense of wellbeing and tranquillity away

from the built up area. The landscape either side of the Flitch Way is integral to that experience.

108. Popularity alone is not sufficient for a landscape to be considered valued, but popularity is not an irrelevant consideration. It is clear from the many objections to this proposal that the Flitch Way and the landscape either side of it, comprising the appeal site, is very popular. The reason it is so popular is because it is so close to Braintree and so accessible. The popularity of the landscape thus reinforces its distinctive qualities. Although valued landscapes no longer have an elevated status in the NPPF, in that they are not regarded as footnote 6 policies which prevent the application of the tilted balance, a failure to protect a valued landscape is still a conclusion to which significant weight should be accorded in the planning balance.

#### *Intrinsic character and beauty of the countryside*

109. The policy imperative to recognise the intrinsic character and beauty of the countryside is now found in paragraph 170(b) of the NPPF. The High Court has confirmed (in *Cawrey Ltd v SSCLG*<sup>94</sup>) that this policy objective applies to ordinary countryside. If the appeal site is part of a valued landscape it will receive a greater level of protection under the NPPF, but the site is part of the countryside and as such it still attracts a level of protection.

#### ***Impacts on landscape character and visual amenity***

##### *The expert evidence*

110. The Council's landscape witness, Mr Neesam, has been involved with the appeal site and the Appellant's proposals since May 2016. Prior to that, he was also responsible for the Braintree District Settlement Fringes work in 2015 (CD8.7). He has visited the site on numerous occasions, throughout different times of the year. On the other hand the Appellant's landscape witness, Mr Williams, had no involvement with the appeal site until July 2018. All of the previous LVIA's had been conducted by ACD. Mr Williams had only been able to visit the site on two occasions in order to inform his assessment. He does not present a full LVIA, but has sought to provide an analysis and summary of the high level landscape and visual effects<sup>95</sup>.
111. GLVIA makes the point that it is important that the basis of the professional judgements reached in an LVIA is transparent and understandable, so that the underlying assumptions and reasoning can be understood by others<sup>96</sup>. It is difficult to understand the criteria against which Mr Williams has assessed the factors which combine to produce judgements on the sensitivity and magnitude of effects. Judgements are expressed using word scales with four categories ranging from negligible to high, but the descriptions provided for those different scales in the main lack detail. Mr Neesam has followed the requirements of GLVIA by providing, in his LVIA methodology, descriptions to accompany the word scales which are used to communicate his judgements on the different elements of the assessment.

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<sup>94</sup> [2016] EWHC 1198, paras 49 & 50.

<sup>95</sup> Document A12, para 4.1.1.

<sup>96</sup> CD8.1, para 3.23.

### *Landscape character*

112. It is common ground that, at site level, there will be significant adverse effects on landscape character<sup>97</sup>. It may well be the case that a large urban extension on countryside adjoining an existing settlement is generally likely to have an adverse effect on local landscape character. However, the fact that this is not uncommon does not mean that it is not harmful.
113. Differences concerning methodology centre around the approaches to assessing susceptibility and magnitude. As to susceptibility, Mr Neesam had assessed an outline proposal for around 1,600 houses, with some commercial uses and associated roads and infrastructure. That is the description of development. The Appellant also considered that Mr Neesam had assessed susceptibility by reference to qualities of the LCA which are not found in the vicinity of the appeal site, but which instead relate to the part of the LCA to the north of Rayne Road. However that part of the LCA to the south of Rayne Road does generally display the qualities of the wider LCA: although the part of the LCA to the north may have slightly higher susceptibility, it does not to the extent that it would alter the judgement on susceptibility from high to medium.
114. Although the appeal proposal only occupies a small proportion of the wider LCA, at a landscape scale it still covers a sizeable area. It is appropriate to give judgements about size and scale of change the most weight in the overall assessment of magnitude.
115. At county level, the site is within LCA C6<sup>98</sup>: the site generally accords with the key characteristics of this character area. Specifically it displays the shallow valley associated with the watercourse; the valley is narrow with undulating valley sides; and the site it is predominantly arable farmland with well hedged medium to large fields. LCA C6 was assessed as having a high sensitivity to urban extensions over 5ha,<sup>99</sup> which are unlikely to be capable of being absorbed. It is considered that there would be a major/ moderate effect at year 15.
116. At district level, the site is within LCA A12<sup>100</sup>. The landscape of the appeal site comprises part of a narrow shallow valley which cuts into an area of farmland plateau. The valley sides are covered by irregularly shaped fields which slope down to the valley floor. The landscape of the appeal site accords with the description of the LCA, which, overall, is assessed as having a relatively high sensitivity to change. The appeal proposal would have adverse effects on key features of the LCA as well as appreciation of those features from points in the surrounding landscape. It would have a major/moderate effect at year 15.
117. In the Braintree Settlement Fringes Evaluation of Landscape Capacity Analysis, the greater part of the appeal site has been assessed as having a low capacity for development<sup>101</sup>. The landscape of the site is of high sensitivity<sup>102</sup>, and it is the kind of site that the LPA has sought to avoid in identifying areas for growth,

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<sup>97</sup> Documents L4 (Appendix 1, page 50) & A12 para 4.2.2.

<sup>98</sup> CD8.5, page 96.

<sup>99</sup> CD8.5, page 100.

<sup>100</sup> CD8.6, page 54.

<sup>101</sup> CD8.7, figures B-08 & B-09. The Appellant's landscape witness suggested in his proof that parcel 20a had been incorrectly shown as having a low capacity as it is referred to in the text as being of medium-low capacity. However the capacity analysis form (Document L4, Appendix 3) clearly gives this part of the site a low overall capacity.

<sup>102</sup> Document L3, para 3.3.1.

preferring to encourage development on sites with greater capacity such as Panfield Lane (medium capacity), Broad Road (range from low-medium to medium-high capacity) and Towerlands (medium capacity) (above, para 35).

### *Visual amenity*

118. Mr Neesam has carried out his visual impact assessment in line with GLVIA, and his assessment is that after 15 years and in summer there would be visual effects of major significance on receptors represented by 6 viewpoints, and effects of major/moderate significance on receptors represented by a further 8 viewpoints. For the Appellant, Mr Williams adopted a different approach of grouping together the LVIA viewpoints, and then carrying out an assessment of the impact on the group as a whole. It is considered that this grouping approach could appear to mitigate against the effect of worst case viewpoints in the LVIA. This way of assessing visual impacts also has the shortcoming that the magnitude of change is often expressed as a range e.g. negligible-medium for Group 1 (Flitch Way) at completion.

### *The Flitch Way*

119. A clear point of dispute concerns the extent to which open views of the surrounding countryside are an important aspect of the Flitch Way's character. This has direct implications for the assessments of landscape and visual impact. Mr Williams's evidence for the Appellant is that the overriding impression and character of the Flitch Way is that of a strongly linear route, where open views are not a dominant feature. Mr Neesam, for the Council, considers that the countryside beyond the Flitch Way is very apparent, and more than merely glimpsed between the Pod's Brook Road bridge and the cutting towards Rayne. A mixture of open, filtered and heavily filtered views is shown on his Flitch Way view analysis figure<sup>103</sup>.

120. The availability of views over a rural and pastoral landscape is an important aspect of the route and part of the reason why it is a well-used recreational resource<sup>104</sup>. The ability to sense the open countryside beyond the vegetation is also key in maintaining a rural setting to the settlements of Braintree and Rayne and reinforcing the sense of two settlements separated by countryside. Although mitigation planting to either side of the Flitch Way would help to screen the proposed development, it would also obscure views of the countryside and would, therefore, fundamentally change the character of the route. In Mr Neesam's assessment, the impact on the character of public access features of the site (including the Flitch Way) would be major/moderate after 15 years<sup>105</sup>, and there would also be major/moderate visual effects on representative Flitch Way viewpoints C and J. The proposed works, including widening and resurfacing, would change the character and appearance of the Flitch Way and render it less attractive. Balancing the benefits of improving the movement function of the Flitch Way against the harm to its current character as a rural leisure route in the vicinity of the appeal site, overall the proposed works would be, at best, neutral in the planning balance<sup>106</sup>.

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<sup>103</sup> CD9.34

<sup>104</sup> Document L4, Appendix 1, para 8.2.1.

<sup>105</sup> Document L4, Appendix 1 page 52.

<sup>106</sup> Document L6, para 6.35.

121. This is the kind of balancing exercise contemplated by Policy RLP 140, which seeks to protect and improve disused railway lines like the Flitch Way. It encourages improvements to these features and links to them, but at the same time makes clear that development that would prejudice their use for recreational purposes will not be permitted. The concept of prejudice goes further than physical prevention or obstruction, to encompass wider concepts of harm, injury or detriment. The conclusion that the impact on the Flitch Way is contrary to the Development Plan can also be reached under Policy RLP 80, which seeks to ensure that development is not detrimental to distinctive landscape features.

#### *Pods Brook Road*

122. Pods Brook Road is heavily planted to both sides and provides an attractive and gentle green gateway into Braintree. The appeal proposal would reduce vegetation and green space to both sides of the road. A gap would be opened up to create the site access, and the views that would be obtained through this gap would be of the tallest and most dense part of the development. In addition to this, the western carriageway would be widened to accommodate an extra lane to the south of the new roundabout, and a 3m wide footway would be added on the eastern side. There would be an urbanising effect on Pods Brook Road, which would be an adverse impact of the development.

#### ***Separation of Braintree and Rayne***

123. The land between Braintree and Rayne in the vicinity of the appeal site has long been recognised as performing an important role. This is reflected in its historic designation as part of a green wedge. The performance of this area of land in meeting the objectives of the green wedges was assessed in 2003, and it was concluded that it met many of the criteria and was therefore appropriately identified<sup>107</sup>. The role played by the site in separating the settlements of Braintree and Rayne was also an important factor in its categorisation as an area with low landscape capacity in the Settlement Fringes Landscape Capacity Study<sup>108</sup>. In the ELP, the West of Braintree Garden Community is proposed on land to the north-west of Rayne (above, para 34)<sup>109</sup>. This proposal makes it all the more important to preserve the gap that currently exists to the east of Rayne.

124. The separation between Braintree and Rayne is most strongly experienced along the Flitch Way, and it is the impact of the development on the perception of separation along this route which is key. Users of the Flitch Way currently have a clear sense of separation between the two settlements. This is not just due to the physical distance between the settlements but also due to the change in setting experienced. The countryside surrounding the Flitch Way represents a vital aspect of the identity of the village of Rayne, and of the user's sense of leaving one developed settlement and arriving into another. The areas identified as urban fringe<sup>110</sup>, including playing fields, a nature reserve and a paddock on the east side of Rayne, do not provide that same contrast and do not currently contribute to the perception of separation between the settlements, because they feel like part of the settlement with which they are associated. There would be a

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<sup>107</sup> CD9.14, page 48.

<sup>108</sup> CD8.7, para 4.86.

<sup>109</sup> CD9.1, figure 19 shows the location of the garden community and part of the gap to the east of Rayne.

<sup>110</sup> Document L4, figure SJN 02.

significant reduction in the size of the gap between Braintree and Rayne. The development would harm the sense of leaving Braintree because the user would lose many of the signals of being outside of an urban area and would see only a very narrow strip of agricultural land in contrast to the countryside views that can be seen at present.

### **Height and density**

125. The key issues concern building heights (specifically, buildings up to four storeys) and density (specifically, areas of up to 110 dph). The message from the character analysis in the design and access statement (CD3.28 – DAS) is that residential development in those areas is mainly two storey, with three storey buildings very much in the minority, and no precedent for four storeys. Further studies appeared with Mr Vernon-Smith's proof of evidence<sup>111</sup>, only one of which (Maylon Close) included any 4 storey development. Maylon Close is located immediately north of the hospital site and just east of a large industrial site, within a built-up area. There is also some four storey development in the town centre and near the rail station. The context for these buildings is fundamentally different to that of the appeal site, which lies in an essentially rural setting. The evidence does not support the inclusion of four storey development. This aspect of the proposal does not accord with the aims set out in the DAS. It conflicts with Policies CS9 and RLP90, and it does not find support in the NPPF.
126. The highest densities recorded by the Appellant across nine character areas were 71 and 80dph respectively, at Maylon Close and St Michaels Hospital<sup>112</sup>. The densities of the other areas did not rise above 47dph, even in the centre of Braintree. The Appellant's design witness described the densities of 71 and 80dph as being appropriate for the central areas of the new development<sup>113</sup>. However those character study areas are still 30-40dph less dense than the upper limits shown on the parameter plans. Whilst sensitivity to the local area does not simply mean copying what is there, the high density areas proposed on this site are out of step with the area.
127. Moreover there is insufficient evidence that areas of the development with high density could be provided with adequate living conditions for residents. There are concerns about the level of parking provision, amenity space and separation distances. An illustrative block includes high density development<sup>114</sup>, but this has an average density of 88dph, rather than the 110dph which is at the upper limit of the parameter plan, and it fails to demonstrate that the maximum form of development sought would provide appropriate living conditions. The maximum density of 110dph conflicts with Policies CS9, RLP10 and RLP90. It is out of character with the surrounding area and concerns about the ability to achieve satisfactory living conditions at the highest densities have not been answered.

### **Housing land supply**

128. At 3.91 years (above, para 94), the LPA's current supply of housing land falls just over a year short of providing the five years requirement. In the Coggeshall appeal decision, issued in July 2017, the Inspector concluded that there was 3.12

<sup>111</sup> Document A4, Appendix 4.

<sup>112</sup> Document A4, Appendix 4.

<sup>113</sup> Document A4, Appendix 4, para 1.10.4.

<sup>114</sup> Document A4, Appendix 6, plan ref 5010.

years' worth of housing land<sup>115</sup>. In her view the weight to be given to the undersupply was tempered by the fact that it resulted, in part, from a recent reassessment of OAN up to 716dpy (whereas the LPA had good levels of delivery against the Core Strategy target of 385dpy in recent years), and that the LPA was in the process of progressing a new local plan. The LPA has now experienced a further increase in the target to 835dpy. Despite this, and the application of a 20% buffer as a result of revised national policy, the housing supply position has improved since the date of the Coggeshall decision. The reasoning for tempering the weight to be given to undersupply applies equally, if not with even more force, now.

129. In 2017/18 the LPA granted permission for 2,312 dwellings, against an annual target of 716dpy. That is over three times the target. In the first quarter of 2018/19, permission was granted for 667 dwellings, only 50 short of the annual target which was then in place. Whilst it is acknowledged that over the past three years there has been significant under-delivery, the most recent performance is encouraging and demonstrates that the LPA is being proactive in approving applications where appropriate. The LPA is also working with the promoters and site owners of the strategic growth sites identified in the ELP to bring that land forward as quickly as possible. It is not suggested that bringing forward these sites will eradicate the shortfall, but the LPA is taking what steps it can to meet local needs and reduce the shortfall. That is relevant to the weight which should be accorded to the housing land supply position.
130. The appeal site is a large area of land which would take a long time to build out. In his written evidence, the Appellant's planning witness anticipated delivery of between 200-270 dwellings within the 5 year period<sup>116</sup>. However the Appellant also drew attention to a letter from Kier which contained higher figures. The letter from Kier does not contain any explanation for the assumptions made, and weight should be attached to it. On the basis that up to 270 houses could be delivered within the five years period, around 18%<sup>117</sup> of the scheme would contribute to the five years housing land supply position. The majority of the dwellings proposed would be delivered outside that period. and would be addressing longer term housing needs. It is likely that an adopted plan will be in place by the end of the current five years' period. When that happens, it will be able to demonstrate a five years supply of housing land. The requirement for a five years' supply does not represent a ceiling on housing delivery, and housing which contributes to longer term needs is still beneficial. But the question of whether or not housing is needed to achieve the nationally-set housing target is an important factor in the planning balance.
131. It is clear that there are significant challenges facing the LPA as far as the emerging plan is concerned. However, it remains at examination and all three NEAs have confirmed their commitment to the principle of the Garden Communities and to producing the necessary evidence and sustainability appraisal (above, para 33). The appropriate way to plan for the longer term housing needs, which 95% of the housing on this site would be meeting, is through the local plan process. Paragraph 72 of the NPPF states that strategic-policy making authorities should identify suitable locations for larger scale

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<sup>115</sup> Document L7, Appendix. 3.

<sup>116</sup> Document A16, paras 6.3.13-14.

<sup>117</sup> The LPA's closing submissions referred to 5%, but 270 is about 18% of 1500.

development such as significant extensions to existing towns, which should be well located and designed. This exercise has been undertaken by the LPA, with specific reference to the landscape capacity of sites which were put forward. Although new housing would be beneficial, particularly where there is a shortfall of land supply, the weight to be given to that benefit in this particular case should not be regarded as significant.

### ***Affordable housing***

132. There is a clear need for more affordable housing in the LPA's area, and there is an accrued shortfall. The appeal proposal complies with development plan policy regarding the level of affordable housing policy. However it does not go beyond this, and all of the sites which have been granted permission recently have similarly included a commitment to delivering 30% affordable housing. Having regard to the anticipated build-out (above, para 130), only a small proportion of the overall amount would be delivered within the five years' period. In the longer term affordable housing would be a significant benefit, but it would be somewhat less significant in the relevant five years period.

### ***Employment land, the local centre and sustainability***

133. Both the employment land provision and the local centre are less than what could be reasonably expected on a site of this size. The level of proposed provision is relevant in the planning balance, because it goes to the issue of sustainability. Paragraph 103 of the NPPF is clear that significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel. Whether all opportunities have been taken to limit the need to travel is an important consideration.
134. The ELP includes provision of employment land within some of the strategic sites in Policy LPP2. The appeal site is strategic in scale, even though it has not been preferred for allocation, and it is therefore appropriate to compare the proposed employment provision with the expectation of emerging policy for other strategic sites. Policy LPP2 specifies that 3ha of employment land will be provided at land East of Great Notley and at Broad Rd, and that 4ha of employment land will be provided at the site in Feering. The provision of 0.65ha of employment land at the appeal site is low in comparison.
135. The 2018 Retail Study Update explains that, as a rule of thumb, a development of 2,000 houses could support 1,500m<sup>2</sup> of convenience and comparison shopping and food/beverage floorspace.<sup>118</sup> Therefore a development of 1,500 houses could be expected to support around 1,125m<sup>2</sup>. The local centre proposed by the Appellant would be no more than 800m<sup>2</sup>, with a maximum 200m<sup>2</sup> of A1 retail use. This is substantially below what the development could support, in terms of meeting day to day needs. It would not result in the need for travel being limited.
136. The Flitch Way is important for the Appellant's sustainability arguments, but the lack of lighting would be likely to affect use of the route in the hours of darkness. The LPA would not on balance support lighting due to the status of the Flitch Way as a local wildlife site and home to a badger sett, and also because it

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<sup>118</sup> CD 2.17 para 7.15

would further exacerbate the impacts on character and appearance. However, the lack of lighting would reduce the attractiveness of the route at certain times, and this would increase the need to travel by other means including the private car, contrary to the thrust of paragraph 103 of the NPPF.

### **Other benefits**

137. The proposed development would generate construction jobs and would benefit the local economy through increased spending and creating demand for shops and services. However, these are benefits which would arise from any housing development. They would also arise from development on sites in more suitable locations. Only limited weight should be given to them.
138. The education land proposed for the appeal site would provide 420 primary school places, set against a demand for 399 places which would be generated by the development<sup>119</sup>. This leaves 21 spaces which would be available for the wider community. Turning to early years provision, there would be an under-provision. The school would provide 56 of the 120 places required to meet the demand generated by the development<sup>120</sup>. This more than cancels out the slight over-provision at primary level. The development is required to make provision for the education need which it would generate, in order to avoid unacceptable impacts on local education infrastructure. This is necessary to make the development acceptable in planning terms. It should not be treated as a benefit of the scheme, or if it is, it is one to which only very limited weight should be attached in the planning balance.
139. The policy requirement for open space for this development is 15.85ha, and a planning obligation would commit the Appellant to providing 17.65ha. The open space would, however, also be likely to have to function as SANG to ensure that the appeal scheme does not have an adverse effect on the integrity of the various European Sites for which it is in the zone of influence. Some of the open space is unlikely to be publicly accessible due to the need to provide mitigation for protected species. The public open space is needed to make the development acceptable and avoid harm: it is effectively mitigation for the housing development and results in a neutral situation rather than being a positive benefit. Any overprovision is minimal, and the weight given to it should be limited.
140. The masterplan indicates that the playing fields would be located at the western end of the development site. That is furthest away from the main built-up area of Braintree. It is not considered likely that, in practice, the proposed playing fields would attract much if any use from outside the development itself. There is a policy requirement to make adequate provision for outdoor sports to meet the needs of the proposal, and no evidence of any oversupply. For similar reasons to those relating to public open space (above, para 139), the provision of playing fields should be accorded limited weight.
141. The Highway Authority considers that the sustainable transport measures proposed are necessary to ensure that there would not be residual severe impacts on the road network. They are required to ensure that the development

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<sup>119</sup> Document L6, para 5.82.

<sup>120</sup> Document L6, para 5.82 and see s. 106 agreement.

is acceptable, and, with the exception of the proposed bus service, the majority of these measures are aimed at future residents and not the wider community. Any benefits should be regarded as limited.

### **Other matters**

142. Although there is conflict with Policy CS8 due to the loss of best and most versatile agricultural land, no issue is taken in this respect since the majority of the District is similarly classified and it would not be possible to meet the housing target without using such land<sup>121</sup>. In the ELP, Policy LLP 26 seeks the provision of traveller pitches at the strategic growth locations and garden communities. As the appeal proposal concerns a large site on the edge of a main urban area, it would be appropriate for the development to include traveller accommodation.

### **Conclusions**

143. The starting point is that the appeal should be dismissed due to the conflicts with the Development Plan. The key material consideration is the NPPF. This first requires the heritage balance in paragraph 196 to be conducted. It is the LPA's case that the harm to heritage assets is sufficient to dispose of the appeal, given the great weight which must be given to that in the balance. If that is not accepted, then it is necessary to consider whether the adverse impacts of the appeal proposal are significantly and demonstrably outweighed by the benefits. The adverse impacts will be those which have led to findings of conflict with the Development Plan together with any other material considerations pointing in the same direction. When that exercise is done, this is a case where the presumption in favour of sustainable development is rebutted. The adverse impacts do significantly and demonstrably outweigh the benefits of the proposal. There are no other material considerations of sufficient weight to displace the statutory presumption in favour of the Development Plan. Accordingly, the appeal should be dismissed.

### **The case for NBGAG**

*The material points are:*

#### **Introduction**

144. The Action Group knows that it represents the views of the community, as the proposal has been on-going for nearly three years and public awareness of it is good. NBGAG has worked hard in that regard and with the local press to ensure people have their opinion heard. Hundreds of individual letters of objection have been sent by individuals and a large number signed a petition against this development. Objectors are from Braintree, Rayne and other areas. In contrast there has been limited support for the proposal.

145. The tilted balance applies here because there is not a five years' supply of housing land, and NBGAG is aware that housing is needed. But the tilted balance cannot be a licence to build anywhere irrespective of what the community would lose, what community assets would be significantly harmed, the loss of identity of towns and villages, and other adverse effects including on highways. This proposal has been assessed both as a site in the ELP and also as a planning

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<sup>121</sup> Document 5.1, page 53.

application by those who know what is best for their communities and who have been elected to represent those communities, assisted by the strong views expressed by Rayne Parish Council. The LPA has rejected this site as suitable for its area, notwithstanding the deficit in housing. Those decisions speak volumes and should be respected.

146. This development would cause adverse impacts which would significantly and demonstrably outweigh the benefits. Benefits should be distinct from mitigation, such as the provision of a school. Housing, and importantly affordable housing, would be created, but only at the minimum level required and which any housing scheme would deliver. It is not a benefit of this scheme in particular. Furthermore, the amount of housing that could contribute to the five years supply has been predicted at only 200-270 dwellings. Yet granting permission for this large building project would be contrary to the plan-led system.
147. The employment land here is small in comparison to the number of new residents and is a little benefit. Most residents will need to go off site to employment. The primary school would meet the need the development creates, and the early years provision would not be fully met. The local centre would accommodate two small shops or one medium sized shop, but would only meet the needs of the new residents. The bus route, works to the Flich Way and highways works amount to at the most small benefits.

### **Coalescence**

148. Braintree and Rayne are distinct. Despite being geographically close they have very different identities. The proposed development, outside of the settlement boundary, would not be a natural urban extension. It juts out of Braintree and fills almost the entire gap between it and Rayne. It is of significance that the land has previously been deemed green wedge and has been identified in the ELP as a green buffer. However separation is more than the physical gap. Rayne feels like a rural village despite its proximity to Braintree, and there is a real sense of travelling from one to the other. Leaving Braintree on Rayne Road, the view near Nayling Road of fields rising up a slope to the tree-line of the Flich Way informs the senses as one travels further along and that view diminishes.
149. Separation is also experienced along the Flich Way. The sense of leaving Rayne does not occur until one is at the end of the playing fields. If the proposal were to go ahead, then within a short distance one would experience the start of the development on the south side with its recreation area and related infrastructure in the foreground. There would be no real sense of leaving one settlement and reaching another. In reverse, there is a real sense of leaving Braintree over Pods Brook Road and travelling through open countryside. Even where there are banks, light still pours in to the Flich Way, one can see some distance over the banks and there is tranquillity. Coalescence is a significant harm to be weighed in the planning balance.

### **Heritage**

150. The harm which would be caused to Naylinghurst, including its setting, is not outweighed or justified by any benefits of this appeal. The development would not be far enough away to avoid being a significant intrusion and detrimentally changing the setting of Naylinghurst. NBGAG refers to adverse impacts on other listed buildings, and it supports the objection made by the LPA when it refused

planning permission, that the proposal would cause less than substantial harm to the significance of the grade I listed Church of All Saints<sup>122</sup>.

### ***The Flitch Way and surrounding countryside***

151. The Flitch Way is a unique place. It is used as a walking path, a running track, a travel route from Rayne and beyond to Braintree, a cycle path, and a place to get away from away from a town or village in safe surroundings. It is not merely a travel route. Although it may be a route of choice for some, that is because of its setting and views. It is unique in that there is safe and easy access to all from Braintree. The impact of the appeal scheme on this valuable and sensitive public amenity is of major concern. The hundreds of letters of objection and the evidence of those who spoke at the inquiry have made plain that the Flitch Way is highly valued. Replacement of the open countryside with 1500 dwellings and other buildings, would result in the loss of the essence of what it is. A path through a housing estate would be the Flitch Way in name alone.
152. Government policy says that there should be protection of open countryside for the benefit of all, and that there should be recognition of the intrinsic character and beauty of the countryside so that it may be enjoyed by all. This appeal scheme offends that policy. It also offends Policy RLP 140 which states that development which would prejudice the use of disused railway lines for recreational use will not be permitted. Prejudice means harm or injury that results or may result from some action. The harm that would result from the building of 1500 dwellings is the loss of the open countryside and the views of the same from the disused railway, which would make the Flitch Way far less appealing to use. The public rights of way which cross the site would become part of the urban environment, and this change would also be detrimental.
153. It is considered that the appeal site is a valued landscape, notwithstanding the change in the NPPF. It cannot be right that valued landscapes are not entitled to protection simply because they are not designated statutory sites or protected in the development plan. Many councils do not yet have a local plan in force nor a five years housing land supply, and that should not allow inappropriately located development to take place.
154. The most significant change proposed in the Sustrans report (CD8.10) is the resurfacing of the Flitch Way with tarmac or some other sealed surface. The benefits of that, such as faster cycling, would be greatly outweighed by the harm caused. The widening to 3m would necessarily remove vegetation, walkers including families, would be at increased risk, and there would be an adverse effect on the rural character of the Flitch Way. The Appellant states that the proposals for the Flitch Way are not fixed, and would be subject to consultation, yet a planning obligation requires improvements in accordance with the Sustrans report.

### ***Highways***

155. If the Sustrans report is not to be implemented, or not as suggested, then where does that leave the highways statement of common ground and the

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<sup>122</sup> In its statement of case, the LPA withdrew its objection in respect of the Church of All Saints; CD6.4, para 3.2.4.

agreement that there would not be a severe residual effect on highways (above, para 39)?

156. The highway information presented by Mr Axon on behalf of the Appellant differs from that previously submitted by other consultants. It is not clear why Mr Axon's methodology is considered to be more accurate, and given the different conclusions, how can there be certainty that there would not be a severe residual effect on the highway network?
157. The bus service would only be a minor benefit to the wider community, since it would predominantly serve the new estate. Where is the evidence that a 15 minute frequency of service would be achievable and maintained in perpetuity so that this development would mitigate its transport effects? It is understood that nowhere in Braintree offers a service with a frequency greater than 30 minutes. The Appellant anticipates every household having at least one car, as an electric charging point would be installed in every home.
158. There is evidence of highway problems. Google Traffic shows slow-moving and queuing traffic on Rayne Road (between the Springwood Drive and Aetheric Road junctions) and Pods Brook Road, with queuing at its worst in the afternoon peak period<sup>123</sup>. Photographic and video evidence illustrates the extent of queuing, which extends back from Aetheric Road through the Springwood Drive junction and onto Pods Brook Road. There is frequent queuing on Pods Brook Road past the proposed site entrance. Two videos taken during the afternoon peak record journey times of 8 and 13 minutes between the A120 and the town centre<sup>124</sup> (a distance of about 1.6km). The mitigation proposed at the Rayne Road/ Aetheric Road/ Pierrefitte Way and Rayne Road/ Springwood Drive/Pods Brook Road junctions relates in part to other schemes. Physical constraints limit what can be achieved at Aetheric Road, and traffic problems at Springwood Drive are a consequence of build-up from that former junction. It is considered that there would be insufficient sustainability measures, and this and the number of external trips mean that there is no certainty that there would not be a severe effect on the highways network.

### **Conclusion**

159. NBGAG comprises residents who know their town and village, and how and why places are used. There is a housing need which should be met, but this should not be at any price. This development would be in the wrong place, a valuable place that is worthy of protection. The appeal should be dismissed because the benefits are significantly and demonstrably outweighed by the detriments it would cause.

### **The Cases for Interested Parties**

*The material points are:*

#### **i) Essex County Council, as Highway Authority**

160. Highways England was consulted on the planning application, and, following the submission of additional information, they stated that there was no objection,

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<sup>123</sup> The Google Traffic research is reported in Document N9, Appendix C.

<sup>124</sup> CD9.47.

subject to certain conditions (CD3.42). In its consultation response, the Highway Authority advised that insufficient information had been provided to demonstrate that the impact on the local highway network caused by the proposal would be acceptable in terms of highway safety, capacity and accessibility<sup>125</sup>. The highway network is busy at peak periods, leading to delays. The Aetheric Road/Rayne Road junction can be the source of problems which flow back through the system<sup>126</sup>. There had been particular concerns about the modelling of impacts at the Aetheric Road/ Rayne Road junction and the importance of assessing the potential effect on the network in the event that the Panfield Lane spine road did not come forward in advance of this development.

161. Subsequently the journey time analysis prepared on behalf of the Appellant had been reviewed. It was considered that the exercise was valid and accurate. Additional information on mitigation measures was also submitted in 2018<sup>127</sup>. In the light of the additional information, the residual cumulative impact on the road network should not be severe. All of the proposed mitigation measures are considered to be necessary.

## ii) Rayne Parish Council

162. Traffic and road safety have been a major concern to the residents of Rayne for many years<sup>128</sup>. The area around the appeal site is subject to lengthy, regular delays. Three junctions would be affected significantly by the development: the A120/ Pods Brook Road north roundabout, Springwood Drive and Aetheric Road. Large queues already occur at these junctions. In consequence more traffic has been using Queenborough Lane and The Street in Rayne with detrimental effects. Other developments in this area will also add traffic to the road network. Although the Highway Authority and the Appellant have signed a statement of common ground on highway matters, it is considered that the impacts on the local road network have not been satisfactorily addressed. It is likely that many parents would drive their children to school, and the proposed primary school would place increased demand on the Springwood Drive roundabout. It is hard to understand how the use of different modelling by different consultants could resolve the traffic situation. The Parish Council is not confident that the mitigation measures would work, and is concerned that congestion would increase.

163. Coalescence would occur between Braintree and Rayne, contrary to the ELP. The development would be within a green buffer. The Flitch Way is a country park. Therefore the surrounding countryside should be preserved, having regard to the NPPF and the ELP. The site is a valued landscape, with high recreational value due to its PROWs. The development would harm the distinctive rural character and landscape of the area. There would be an unacceptable alteration to the setting of Naylinghurst. The proposal would also adversely affect the setting of Rayne Conservation Area and the Church of All Saints. Even if the tilted balance is applied, the adverse effects of the granting of planning permission would significantly and demonstrably outweigh the benefits.

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<sup>125</sup> Letter from Essex CC dated 15 April 2016, in CD6.3. A statement from the LHA is at CD9.26.

<sup>126</sup> In response to questions from NBGAG.

<sup>127</sup> The journey time analysis and package of transport mitigation measures are in Appendix 1 to CD6.8.

<sup>128</sup> The Parish Council's statement is at Document O8.

### **iii) Friends of the Flitch Way & Associated Woodlands**

164. There is concern about the loss of habitat and wildlife on the Flitch Way should the development proceed<sup>129</sup>. The development would also have a detrimental effect on the countryside surrounding the Flitch Way. If the appeal is allowed, it is important that any works to the Flitch Way are undertaken in consultation with stakeholders. The Sustrans report was well-intentioned, but there are reservations about its recommendations, particularly concerning a tarmac surface. Sustrans guidelines indicate that gritted path surfaces are best for multi-user paths which include horse traffic, and to the west of the former station at Rayne<sup>130</sup>, the path is a bridleway.

### **iv) The Braintree Society**

165. It is considered that the capacity of potential housing sites exceeds the number of dwellings required up to 2033<sup>131</sup>. The countryside between Braintree and Rayne is extremely attractive. The development could not be successfully integrated into the local landscape as it would cause the two settlements to appear as a single entity. Loss of the fields would result in a loss of wildlife, and it would adversely affect features of the landscape such as the Flitch Way, which would become a footpath through a housing estate.

166. There is concern about the effect of the development on education and medical facilities, and that it could lead to an increase in flooding on Rayne Road. Severe congestion occurs on Rayne Road and in Braintree town centre. The development would exacerbate traffic problems, and is expected to add to the number of people travelling out of the area to work.

### **v) Local residents**

167. Ten local residents spoke against the proposal at the inquiry, and raised the following matters<sup>132</sup>. The proposal would cause harm to the environment. The green space occupied by the appeal site is important in maintaining Rayne's character as a countryside village, and it has been proposed as a green buffer. Coalescence would occur as a result of the development. Traffic levels would increase due to other developments in the area: the addition of further vehicles from the appeal proposal would lead to extended journey times and more congestion, and concern has also been expressed about pollution. The development would also put more strain on health services. A tarmac surface would damage the character of the Flitch Way. It would become a footpath and cycleway through a housing estate. The Flitch Way provides tranquillity and a sense of space, with views of the countryside, and is a valued and well-used facility. There would be a loss of biodiversity, with wildlife and plants being adversely affected. Three and four storey buildings would be out of character with this rural area. If any development goes ahead, the number of dwellings should be reduced, and a buffer zone established on each side of the Flitch Way. It is acknowledged that more houses are needed in Braintree, but they should be

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<sup>129</sup> A letter and statement from the representatives of the Friends of the Flitch Way who spoke at the inquiry are in Document O3 and at CD9.20.

<sup>130</sup> Although beyond the appeal site, this part of the Flitch Way up to the A10 is covered by the Sustrans report.

<sup>131</sup> The Braintree Society's assessment is on page 2 of CD9.24.

<sup>132</sup> Statements and a letter from local residents who spoke at the inquiry are at CDs 9.17-19, 9.21-23, 9.36, 9.50 & 9.51.

built in appropriate places. There is concern the hard surfacing would increase the risk of flooding on Rayne Road.

#### **vi) Written Representations**

168. Local residents who did not appear at the inquiry submitted about 27 objections in response to notification of the appeal (Document O3) and about 75 objections in response to the ES Addendum (Document O5). A further letter of objection was received at the inquiry (CD9.32). Similar concerns were raised to those put forward by the residents who appeared at the inquiry. Other reasons for objection are: pressure on infrastructure, housing should be built on brownfield land, erosion of the identity of Rayne and Braintree, implications for the natural environment of the effect of a gravel pit on the water table, the development would detract from Rayne Conservation Area and the listed building of Naylinghurst, noise, the loss of agricultural land, the cumulative impact with other development, conflict with national and local policies. Sport England advised that if planning permission is granted, sports infrastructure should be provided: financial contributions or conditions are suggested<sup>133</sup>. Two letters of support have been received at appeal stage (in Document O5). Home Group and Kier Living are prospective development partners for the site, and respectively refer to the contribution the proposal would make to the provision of affordable housing and to meeting the shortfall in the five years housing land supply.
169. Previously over 350 objections were received to the planning application, and there were three petitions with about 1,060 signatures. The concerns raised are similar to those put forward at appeal stage<sup>134</sup>.

#### **Conditions**

170. The Appellant and the Council submitted a schedule of possible conditions which had been discussed at the inquiry (CD9.44). These cover the following matters: phasing, specification of the approved plans, provision of the local centre and employment land, parameter plans and the maximum number of dwellings, submission of level details, noise limits, trees, a limit on the number of dwellings pending completion of the Millennium Way slip roads scheme, charging facilities for battery powered vehicles, a species and habitat management plan, a construction environmental management plan, bat roost and bird nesting opportunities, drainage, contamination, a statement of construction practice, archaeological evaluation, and measures in relation to RAMS.

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<sup>133</sup> In Documents O3 & O5.

<sup>134</sup> The representations at application stage are set out in detail in the LPA's report, CD5.1.

## **Conclusions**

*References are made, where appropriate, to sources of material in earlier parts of the report by indicating the relevant paragraph number thus [8].*

### **Main considerations**

171. Having regard to the representations and statements of common ground, I have identified the following main considerations in this case:
- (i) The effect of the proposed development on heritage assets.
  - (ii) The effect of the proposed development on the character and appearance of the area.
  - (iii) The effect of the proposed development on the separation of Braintree and Rayne.
  - (iv) The effect of the proposed development on traffic movement.
  - (v) Whether the proposal would be consistent with policies in the Development Plan.
  - (vi) The effect of other considerations, including housing land supply, on the overall planning balance.

### **Heritage assets**

#### *Naylinghurst*

172. The grade II listed building known as Naylinghurst is situated close to the appeal site, on its south-west side [13]. The main parties agree that the proposal would include development within the setting of the listed building [45, 99, 150], and I have no reason to take a different view. Naylinghurst was originally a farmhouse, dating from the 17<sup>th</sup> century [44]. Whilst the building was subsequently enlarged, I observed that the older part can be distinguished externally, most clearly from within the curtilage. The significance of the listed building does not derive solely from its original timber frame and floor plan. It is an example of a historic former farmhouse and it remains surrounded by farmland [46, 100].
173. Evidence from 19<sup>th</sup> century maps shows that the land farmed from Naylinghurst did not coincide with the appeal site [45]. Part of the former holding has been developed, although a large part of parcel B was part of the farm. The Appellant drew attention to the removal of field boundaries which have occurred since 1840 [44], and it is true that there have been certain changes in the appearance of the area around Naylinghurst. Notwithstanding these factors, Naylinghurst is a historical former farmhouse situated in an agricultural landscape. This landscape not only contained a functional link with the farmhouse, but also serves as a reminder of the purpose for which it was built in this location. In this way the setting of Naylinghurst makes an important contribution to the significance of the heritage asset.
174. The concept masterplan indicates that playing fields would be laid out on the westernmost part of the appeal site, which is closest to Naylinghurst [19]. The listed building would, therefore, continue to be surrounded by open land.

However, whereas the larger fields of today still provide a clear agricultural association with the listed building, the playing fields, which would be likely to have a more formal and uniform layout, would have no such link. Fields would remain to the west and south, but the house would no longer be immersed in farmland, an aspect of its setting which I regard as being of great importance. Moreover I consider that the setting of Naylinghurst extends further into the appeal site than the position of the proposed playing fields. The house appears as a distinct feature across the farmland from the east [101], and it is also seen in filtered views through a line of trees from the east-west footpath across parcel B. These views of Naylinghurst in its wider agricultural context would be greatly restricted by the built development spreading eastwards across the site from the playing fields. In consequence the ability to appreciate the listed building in its agricultural context would be diminished.

175. To the north of the Flitch Way and to the east of parcel A, the grade II listed building of Clapbridge Farmhouse is now within a residential development [46]. Whilst in such a situation the physical attributes of the building itself are not affected that does not necessarily mean that its significance has not been impaired. In any event, each circumstance must be judged on its own merits.
176. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering proposals which affect a listed building or its setting, special regard shall be paid to the desirability of preserving the building or its setting. For the reasons given above, I consider that the proposal would detract from the setting of Naylinghurst. Since farmland would remain to the south and west, there would be a moderate adverse effect overall on its setting. Having regard to paragraph 196 of the NPPF, this would represent less than substantial harm to the significance of the listed building.

#### *Rayne Conservation Area*

177. Rayne Conservation Area lies on the eastern side of the settlement, where it extends to the north-east, the south and the west from the crossroads junction at Rayne Road/ Shalford Road/ The Street/ Gore Road. The Street follows the line of a Roman road (Stane Street) and contains several listed buildings [47], notably the group at the northern edge of the settlement including the Church of All Saints and Rayne Hall. Between the conservation area and the western edge of the appeal site are playing fields adjacent to the village hall, a nature reserve and paddock and farmland [13]. Intervening tree cover, particularly on the eastern side of the nature reserve restricts intervisibility between the appeal site and the conservation area.
178. The conservation area is significant as the historical settlement of Rayne on the line of a Roman road. It abuts contemporary built development to the west [47], but that relationship does not lessen the importance of the open landscape to the north and east. Overall this open land contributes to an appreciation of the origins of the conservation area as a distinct rural settlement and hence to its significance. There are views from the Flitch Way on approaching and leaving Rayne of agricultural land on which development is proposed [103], but these views are beyond the strong tree cover to the east of the nature reserve and paddock. Residential development at this western end of the appeal site would occur within the setting of the conservation area; however given their

relationship I do not consider that the proposal would materially alter the contribution which setting makes to the significance of this heritage asset.

#### *The Church of All Saints*

179. This grade I listed building is situated at the northern end of the conservation area [13]. As a grade I listed building it is a heritage asset of the highest significance (NPPF, para 194(b)). The church abuts the open landscape which extends to the north and east, and there is intervisibility between the listed building and existing buildings close to parcel A. The important relationship of the church to the nearby open land would be unaffected by the proposed development which would occur some distance away on land to the south of Rayne Road [48]. Although NBGGA maintained an objection in respect of the effect of the development on the significance of the Church of All Saints [150], it offered no specific evidence in support of this stance. I am satisfied that the appeal proposal would not detract from the contribution which setting makes to the significance of this important heritage asset.

#### *Other heritage assets*

180. There are several other listed buildings in the locality [13]. The nearest of these to the appeal site is Clapbridge Farmhouse, which is within a modern housing development between parcel A and Pods Brook Road [46]. NBGAG expresses a general concern about the effect of the appeal proposal on other listed buildings than Naylinghurst, but no specific evidence has been submitted. There is nothing before me to indicate that harm would be created in this regard.

#### *Conclusions in respect of heritage assets*

181. Development towards the western end of the appeal site would be within the settings of the listed buildings of Naylinghurst and the Church of All Saints and also of Rayne Conservation Area. It would not adversely affect the setting of either the grade I listed church or the conservation area. I have reached a different view in respect of Naylinghurst. Here I conclude that there would be a moderate adverse effect overall on the setting of the listed building, which would represent less than substantial harm to its significance. Accordingly the proposal would conflict with Policy CS9 of the Core Strategy, and with Policies RLP 90 and RLP 100 of the Local Plan Review.

### **Character and appearance**

#### *Landscape character*

182. The appeal site lies in the Blackwater/ Brain/ Lower Chelmer Valleys and Pods Brook River Valley LCAs of the county and district landscape character assessments respectively [36]. Both assessments refer to shallow valleys and large fields, features which are evident at the appeal site, although the district level assessment is of greater relevance to the particular proposal before me. Key differences between the Appellant and the LPA concern the susceptibility of the Pods Brook River Valley LCA (A12) to accommodate the proposed development [55] and the magnitude of its effect on the LCA [57].

183. The greater part of LCA A12 extends to the north of Rayne Road where I saw that there are extensive views across the landscape. To the south of the road is built development at Gilda Terrace and tree cover along the Flich Way and Pods

Brook Road. That road runs through the LCA and the A120 is immediately to the south. These features do not materially lessen the experience of open views in the southern part of the LCA, other than around parcel C where no built development is proposed. There are views from the north over Rayne Road towards parcel A, and to the south of Flitch Way there are extensive views to the east and west across parcel B. It is true that this southern part of the LCA is closer to Braintree and the main road network, but these do not contain this area and are not unduly dominant influences. I do not find that these considerations render the southern part of the LCA less susceptible to development of the form proposed, and I agree with the LPA that its susceptibility to the development proposed is high.

184. Insofar as magnitude of effect is concerned, the LPA suggests that the development would be perceived over a greater distance than does the Appellant [57]. The masterplan envisages substantial planting around the site [19], and the Flitch Way would help to break up the mass of the new built form. However, given the extensive areas of building within the landscape cordons shown on the landscape parameter plan in both parcels A and B, I consider that it would be difficult to effectively assimilate the new housing and other elements of the scheme into their surroundings, even by year 15. The variations in topography [15] would increase the prominence of parts of the development, and this reinforces my concern about the magnitude of effect. Although the development would be a relatively small part of the overall area of LCA A12, it would not only be substantial in absolute size, but would effectively diminish the extent of the LCA south of Rayne Road. I am in no doubt that the magnitude of effect after 15 years is properly described as medium. It follows that I prefer the analysis of the LPA's landscape witness, and I agree that there would be a residual effect of major-moderate significance on the wider LCA. This harm merits an equivalent degree of weight.

185. I turn now to consider the effect on the site itself. Both the LPA and NBGAG argue that it is a valued landscape [107, 108, 153]. It is clear from the written representations and those made at the inquiry that this area of countryside is appreciated by the local community [163, 165, 167]. A more objective consideration has always been required, and the revised NPPF has clarified the position. Paragraph 170(a) explains that valued landscapes should be protected in a manner commensurate with their statutory status or identified quality in a development plan. The LPA suggested that it is the manner not the fact of protection which is subject to the above qualification. A straightforward reading of paragraph 170(a) does not lead to the view that there are other categories of valued landscape (which are not statutorily designated or identified in a development plan). As the appeal site does not meet the requirements of paragraph 170(a) [104], I find that it is not a valued landscape.

186. It does not follow from my finding on valued landscape that the effect of the proposal on the character of the appeal site (as opposed to the wider LCA) would be unimportant. Indeed, as built development of the scale proposed would have a harmful effect on LCA A12, it would inevitably be damaging to the character of the landscape of the appeal site, which has been assessed respectively by the Appellant and the LPA as of medium-high and high sensitivity [54, 117]. It is intended that hedgerows forming field boundaries would be retained where possible and areas of greenspace would be provided by watercourses. Nevertheless the greater part of the open fields would be lost to built

development, resulting in a substantial adverse effect as acknowledged by the Appellant [54]. Moreover the Evaluation of Landscape Capacity report prepared for the LPA assessed the greater part of the appeal site as land with a low capacity to accommodate development [117]. The harm caused by the loss of the appeal site carries considerable weight in my considerations.

#### *Visual effects*

187. The proposed development would be readily apparent from the Flitch Way which runs between parcels A and B. There is tree cover along the route, and part of the path to the east of Rayne, is in a cutting. Tree cover does not, however, prevent views of the surrounding countryside. I walked along the Flitch Way between Pods Brook Road and Rayne in both directions. Where vegetation is more dense views are filtered, but elsewhere lightly filtered views exist and there are several breaks in cover affording open aspects across parcel B [119]. Even in the cutting, where there is no direct outward view, a sense of openness is apparent. The Flitch Way is well-used, and representations from the local community refer to the opportunity it provides to appreciate the surrounding countryside [151, 167]. Substantial additional tree planting would be provided alongside the north and south sides of the Flitch Way [19]. As this cover matured, it would screen and soften the impact of the buildings on the appeal site. However, whilst in this respect the planting buffers would provide mitigation, that would not compensate for the loss of views, albeit filtered in places, across the open fields of the appeal site. This is a harm to which I accord considerable weight.
188. A number of public footpaths cross parcel B [12]. The masterplan shows that these would be retained or slightly realigned, and that they would run through green corridors or areas or open space. The paths would, though, be incorporated into urban development, and users would experience a major adverse change with the loss of the open outlook over the fields of parcel B, and its replacement with housing, employment units, and a local centre. Considerable weight attaches to this major harm.
189. From beyond the Flitch Way and the appeal site the effect on visual amenity would be less pronounced. There are views towards parcel A from footpaths in the vicinity of the Church of All Saints, to the north of Rayne Road. Whilst it is likely that the upper part of buildings on the higher land behind Gilda Terrace, some of which would be three storeys in height [18], would be discerned, the development would not be prominent from this direction due to the distance from the site, and the existing buildings and vegetation along Rayne Road. The effect would be similar in views further along the path to the east, and to the north where the land falls to Pods Brook the topography would prevent views of development on parcel A. There are a number of elevated vantage points on footpaths between Rayne Road and Springwood Drive. They are for the most part set further away from the site, and the viewer would be aware of closer built development including housing under construction on the north side of Rayne Road. In this context any limited view of housing on the appeal site would not have a material effect.

#### *The height and density of development*

190. The LPA raised concerns about the height and density of the new development [125]. Specifically it objects to four storey buildings (parameter plan 3 shows

development up to four storeys high in parcel B at the local centre and adjacent to the south and west [19]), and to density of up to 110dph (parameter plan 4 shows this highest density range on the western part of parcel A and in a central position in parcel B, including the local centre [18, 19]).

191. It is common ground between the Appellant and the LPA that there is not a five years' housing land supply in Braintree [38]. Where such a shortage exists, paragraph 123 of the NPPF refers to the importance of making the optimal use of the potential of each site, and paragraph 127(c) makes it clear that, whilst developments should be sympathetic to local character and history, this should not prevent appropriate innovation or change, such as higher densities.
192. Several local character assessments have been undertaken on behalf of the Appellant, including parts of Braintree, Rayne and Great Notley [125]. Buildings in these areas are predominantly two storeys in height, and Malyon Close is the only character area where four storey development is identified, although at the inquiry the LPA noted that there is also some four storey development in the town centre and near the rail station [125]. There are commercial premises near to Malyon Close, and the context of these areas is different from that of the appeal site on the edge of the built-up area. More strikingly, no densities comparable to the upper range sought on the appeal site have been identified, the highest being 71 and 80dph at Malyon Close and St Michael's Hospital [126].
193. I am clear that the inclusion of four storey buildings as part of the development would fail to be in harmony with the character and appearance of the surrounding area, contrary to Policy RLP 90 of the LPR. Although there is little detail about the form of the proposed dwellings, given the extent of the difference between the upper level of proposed densities and those in the surrounding area, I have reached the same view on this aspect of the proposal. The introduction of a form of development which is atypical in Braintree would not be an appropriate change envisaged by paragraph 127(c) of the NPPF. Revised parameter plans have been submitted which omit four storey development and reduce the upper density level to up to 50dph [66]. Implementation of the proposal in accordance with these plans would have the consequence of limiting the maximum number of dwellings to 1203. With the safeguard of a condition requiring the submission of reserved matters in accordance with the revised parameter plans and specifying the maximum number of dwellings, I am satisfied that the height and density of the development would not cause harm to the character and appearance of the area.

#### *Pods Brook Road*

194. Pods Brook Road is a busy road which provides a link between the A120 and Braintree. Although there is substantial tree cover along much of its length, the sweeping alignment of the road, the highway bunds and the bridge carrying the Flitch Way all point to a highly engineered feature, and the traffic levels emphasise the existing urban influence. The development would involve the widening of the southern end of the road with the consequential loss of some tree cover along the edge of the appeal site [64]. In addition a cycleway link would be formed along the eastern side of the road [21]. A well-vegetated highway border would remain following these works, and there is scope for additional planting to take place if considered necessary. The residual effect on the character of this part of the road would be negligible, and the green approach to

Braintree would not be diluted. There would be a significant change at the site access where formation of a roundabout junction would reveal views of the new development, with the local centre and other denser parts of the scheme set back behind open space [122]. Given that these would not be prolonged views, I consider that only slight harm would be caused by this aspect of the scheme.

### *The Flitch Way*

195. I have already considered the effect of the proposed development on views from the Flitch Way (above, para 187). There are also proposals to undertake works to the Flitch Way itself as part of efforts to promote the use of sustainable transport modes in connection with the appeal proposal [61]. A series of measures are put forward in a report by Sustrans, commissioned on behalf of the Appellant, and the proposal to lay a 3m wide tarmac surface to the west of the bridge over Pods Brook Road has provoked considerable local opposition [154, 164, 167]. There is a tarmac surface from Braintree station through the town to Pods Brook Road, but beyond this point the surface is unsealed. NBGAG, the Friends of the Flitch Way and local residents are concerned that extending the tarmac surface would be out of keeping with this countryside location.
196. Although the Sustrans report refers to tarmac, alternative forms of treatment are available, including surfaces for use where sealing of the ground is undesirable or to address environmental concerns [63]. Provision for the Flitch Way works is included in the planning agreement [8]. The works are to be generally in accordance with the improvements specified in the Sustrans report, allowing for a scheme to be prepared which would involve a surface treatment other than tarmac and avoiding a uniform width. Moreover the scheme is required to be subject to consultation with Rayne Parish Council and the Friends of the Flitch Way. I share the view of the local community that laying a 3m wide tarmac surface would fundamentally and adversely change the character of the Flitch Way west of Pods Brook Road, resulting in an overt urban influence. However, this form of treatment is not prescribed, and the requirement for consultation represents a safeguard for the community. In these circumstances, I do not find that the proposals for the Flitch Way would cause harm to the character and appearance of the area, and there would be no conflict with Policy RLP 140 of the LPR.

### *Conclusions in respect of character and appearance*

197. The proposal would cause harm to the character and appearance of the area. I conclude that the adverse effect on the LCA carries at least moderate weight, but that considerable weight attaches to the harm to the landscape of the site and visual amenity from the Flitch Way and footpaths within parcel B. In addition the visual impact from the access on Pods Brook Road carries some limited additional weight. Accordingly the proposal would conflict with Policies CS5 & CS8 of the Core Strategy and Policies RLP 80 & 90 of the LPR.

### ***Separation of Braintree and Rayne***

198. The appeal site lies within the open gap between Braintree and Rayne [12]. The importance of the gap was recognised locally when a review of the LPA's green wedge policy found that the majority of the landscape qualities of the gap between Braintree and Rayne contributed to the green wedge criteria. Although the policy was not included in the current Local Plan, green buffers, including

between Rayne and Braintree are put forward in the ELP [35]. Given the further work to be undertaken on the evidence base and sustainability appraisal before completion of the Section One examination of the ELP [33], the weight which can be given to policies included in the LP is limited. Nevertheless Policy LLP 72 on green buffers highlights the role of the land between Braintree and Rayne in maintaining separation between the settlements.

199. The existing gap between the settlements includes not only farmland (much of which is within the appeal site), but also playing fields, a nature reserve and paddock on the edge of Rayne [13]. I note that the LPA views this land as urban fringe since the activities are there because of proximity to the settlement and that they do not have a countryside character [124]. It is, though, all part of the existing tract of open land between Braintree and Rayne. Taking the whole of this open land into account, the appeal site forms a large part of the gap to the south of Rayne Road.
200. The Appellant has calculated that on Rayne Road, there would be a reduction of only about 45m between the urban edges of the two settlements [59]. The housing of Gilda Terrace already projects out from Braintree along Rayne Road with the western part of parcel A behind it. Although the built form would not extend much further towards Rayne as a result of the proposal, the construction of housing on the rising land behind Gilda Terrace would nonetheless consolidate the depth of development at the edge of Braintree, as observed in the approach from the west. Persons travelling along the Flitch Way would be aware of a gap between the western limit of building on the appeal site and the eastern edge of Rayne, but the sense of separation would be markedly less than that available at present to which open and filtered views over the appeal site contribute. I find that the appeal proposal would appreciably diminish the sense of separation between the settlements of Braintree and Rayne, particularly as experienced from the Flitch Way. Overall I accord moderate weight to this harm.

### ***Traffic movement and sustainable travel options***

201. Pods Brook Road provides a link between Braintree town centre and the A120, and is a well-trafficked route. The vehicular access to the larger part of the proposed development, on parcel B, would be taken from this road, and that to parcel A would be taken from Rayne Road, which joins Pods Brook Road at a roundabout junction to the north-east of the site. There is general consensus that there are points of pressure on this part of the local highway network.
202. NBGAG refers to extensive queuing along the route between the junction of Pods Brook Road with the A120 and that of Rayne Road with Aetheric Road, with traffic levels leading to journey times of up to 13 minutes over this relatively short distance [158]. Anecdotal evidence from local residents and Rayne PC supports the views expressed by NBGAG [162, 167]. For his part, in his journey time analysis, the Appellant's transport consultant acknowledges that the highway network does not flow freely at certain times of the day, with queues of between 120m and 480m on the Pods Brook Road/ Rayne Road route during peak periods [67]. In response to questions from NBGAG, the Highway Authority acknowledged that delays occur at peak periods, and that the Aetheric Road/Rayne Road junction is a particular cause of problems [160].
203. During the course of the planning application and appeal, the Appellant has submitted a considerable amount of highways documentation. The 2015

Transport Assessment has been superseded, as has part of the subsequent 2017 Assessment. The 2017 Transport Assessment should be read in conjunction with the more recent Mobility Case and Journey Time Analysis [70]. A lower level of traffic generation is given in the Mobility Case than in the 2017 Transport Assessment. That Assessment used Local Plan trip rates for the residential element of the scheme, whereas the Mobility Case uses a more detailed approach drawing on the TRICS database, the National Travel Survey and census data. I consider that that approach is appropriate for assessing the traffic implications of a specific proposal, and I note that the Highway Authority has raised no objection to the methodology used. That said, I consider that a note of caution should be applied to the assumption that there would be no external student trips to the primary school. Although many pupils would no doubt walk or cycle, it is likely some children would be taken by car. The greater part of the proposed housing would be on parcel B, whereas the school would be built on parcel A, and there would be no access between these parts of the site for cars. Consequently any school trips made by car to and from parcel B would place traffic on the external network.

204. The proposal is expected to generate 687 car trips in the morning peak and 819 car trips in the afternoon peak, a significant reduction from the number predicted in the 2017 Transport Assessment [70]. It is the position of the Appellant, accepted by the Highway Authority, that drivers would act to minimise inconvenience, that queuing and journey times would continue to fluctuate, and that traffic from the new development would displace existing traffic on the network [68]. Sensitivity tests undertaken to assess the effect of additional (as opposed to replacement) trips indicate that the additional journey times at the Aetheric Road junction would increase by between 21 and 94 seconds [71].
205. On the basis of the approach set out in the Mobility Case and Journey Time Analysis, the Appellant's transport consultant does not consider that all of the highways works included in the mitigation package, and the Millennium Way slips scheme, are necessary in connection with the appeal proposal [69]. It seems to me that this is an overly optimistic view. I have already noted that it is likely that there would be some traffic on the external road network making trips to and from the primary school (above para 203). Whilst the scheme would offer good opportunities to make journeys on foot and by cycling, use of these modes may be less during periods of inclement weather. Moreover the Flitch Way, which is a key component of the sustainable travel credentials of the site, is unlit. This circumstance is likely to discourage use during the hours of darkness, which in the winter months would cover times when people would be making journeys for various purposes including work and shopping. It follows that I consider that the level of traffic on the local highway network following implementation of the development would be greater than that anticipated by the Appellant. Bearing in mind the acknowledged problems of traffic movement which exist in the area, I consider that the full package of transport measures put forward by the Appellant [19, 21], including highway works in addition to sustainable transport measures, together with the provision of the Millennium slips scheme, is necessary to ensure that the residual cumulative impact on the road network would not be severe, contrary to paragraph 109 of the NPPF. These measures are able to be secured by planning obligations and conditions.

## ***The Development Plan***

### *The Core Strategy*

206. Policy CS1 sets out the locations for new residential development, which include existing settlements, growth locations and regeneration sites [24]. Although adjacent to Braintree, the appeal site is located outside the town, and it does not form part of the growth location to the north-west. The appeal site is outside the built-up area, and in this location Policy CS5 seeks to restrict development to uses appropriate to the countryside. Given the proximity of the site to the built-up area, the presence of the Fitch Way which provides a direct link for pedestrians and cyclists into the town, and the opportunity to provide direct access to the greater part of the site from a key route close to the A120, this is an accessible location for new development as sought by Policy CS7. Moreover the scheme would include a package of measures to encourage the use of sustainable modes of transport. The accessibility of the site's location does not, however, alter the inherent conflict with Policies CS1 and CS5. Policy CS4 explains that land for employment purposes will mainly be located in existing employment sites, and the mixed use and strategic sites specified in the CS. That does not preclude some employment development coming forward elsewhere, and the proposal for 0.65ha of the site to accommodate B1 uses does not involve a conflict with this policy in addition to that with Policy CS5.
207. I have found that the proposed development would detract from the setting of the grade II listed building, Naylinghurst, contrary to Policy CS9. Because of adverse effects on the character and appearance of the area, there would also be conflict with CS5 and CS8. Policy CS8 is also concerned with the protection of the best and most versatile agricultural land, which makes up much of the appeal site [15]. Whilst the LPA takes no issue with the loss of such land, given that much of the District is similarly classified [38, 142], there is nevertheless an additional conflict with Policy CS8 in this respect.
208. Policies CS2, CS3, CS10 & CS11 are also of relevance. Although the site is currently countryside, the proposal would represent an urban extension to Braintree. Policy CS2 seeks 30% affordable housing in the urban ward of Braintree & Bocking, and a planning obligation would secure this level of provision [17]. In its seventh reason for refusal, the LPA referred to traveller accommodation. There is a need for additional pitches in Braintree: Policy CS3 sets out the level of requirement and criteria for the assessment of possible sites. It does not require the inclusion of traveller accommodation in urban extensions, although the LPA seeks provision for travellers in any development on the site, reflecting the approach on strategic sites in the ELP [142]. A planning obligation would provide for at least five pitches to be laid out as part of the overall development. This contribution to meeting the need for traveller accommodation would be consistent with Policy CS3 and would represent a benefit of the proposal, which merits modest weight. The proposal would provide sufficient open space to comply with the requirements of Policy CS10, and planning obligations would require the provision of infrastructure, or the payment of contributions towards provision, in line with Policy CS11.

### *The Local Plan Review*

209. Just as the proposal would conflict with Policy CS5 by virtue of its location outside the development boundary for Braintree, so it would be contrary to Policy

RLP 2 which, in similar vein, refers to the application of countryside policies. The proposal, however, has the potential to be well served by a new bus route, and pedestrian networks and cycle ways would be incorporated into the layout. Accordingly there is compliance with Policies RLP 53, 49 & 50. The proposal is in outline form, but it is intended that a variety of accommodation would be provided [17], including up to five traveller pitches. It would be a mixed community, as sought by Policy RLP 7. Policy RLP 10 is concerned with density. The LPA is concerned that the higher range of densities within the development would lead to unsatisfactory living conditions, referring to concerns about parking provision, private amenity space and separation distances to safeguard privacy [127]. An illustrative site plan of a development block shows how a density of 88dph could be achieved, although this is below the maximum level of up to 110dph. I have already found that the maximum density would be out of keeping with the character of the wider area, but that this matter could be resolved by the imposition of a condition referring to a revised parameter plan with an upper density level up to 50dph (above, para 193), and limiting the maximum number of dwellings to 1203. With the safeguard of such a condition, I am satisfied that satisfactory living conditions could be achieved at reserved matters stage, and there is, therefore, no conflict with Policy RLP 10.

210. Policies RLP 90, 95 & 100 include protection for heritage assets. Since there would be no material effect on Rayne Conservation Area, the proposal would be consistent with Policy RLP 95. However, due to the adverse effect on the setting of Naylinghurst it would conflict with Policy RLP 100 and criterion (iv) of Policy RLP 90. There would also be conflict with criterion (v) as the mass of built form on the appeal site would not in harmony with the character and appearance of the area, having regard to the adverse effects on visual amenity, and the landscape of the site and LCA A12. For this reason the proposal would not be consistent with Policy RLP 80 which makes it clear that proposals which would not successfully integrate into the local landscape should not be permitted. Policy RLP 140 which seeks to safeguard the use of disused railway lines for recreational purposes is also relevant. There was some debate at the inquiry about the meaning of the word *prejudice* in this policy [42, 121]. It does not seem to me that prejudicing the use of disused railway lines need only refer to circumstances which would prevent their use. However it does indicate that those circumstances would have to materially reduce the prospect of such use. Whilst I consider that the appeal proposal would harm visual amenity from the Flitch Way, I do not consider that it would materially reduce the prospect of its use, having regard to its continuation through the countryside to the west of Rayne, and its availability to residents of the new housing on the appeal site. Measures are put forward to improve the Flitch Way, and, subject to satisfactory proposals for surfacing, the scheme would be in accord with this policy of the LPR.

#### *The Minerals Local Plan*

211. To avoid sterilising sand and gravel resources at the western end of the appeal site, a planning obligation would defer development on this part of the site until a mineral application had been determined, and, if granted, all consented material had been extracted. With this provision in place there is no conflict with Policy S8 of the Minerals Local Plan.

### *Conclusions on the Development Plan*

212. The proposal would involve development taking place in an accessible location where sustainable modes of transport would be available. It would comply with policies in the CS and LPR in this regard, and subject to conditions and obligations, with policies concerning the mix of accommodation and density. Insofar as the Flitch Way is concerned, the use of this route would not be prejudiced by the construction of housing in parcels A and B, and works to improve the route are envisaged: the proposal would, therefore, comply with Policy RLP 140.
213. Notwithstanding compliance with a range of policies in the CS, the LPR, and with Policy S8 of the Minerals Local Plan, the appeal proposal would conflict with certain policies concerning the location of development, the countryside and heritage assets, namely Policies CS1, CS5, RLP2, RLP 80, CS8, CS9 and RLP 100. Together with Policies CS7 which encourages development to take place in accessible locations and RLP 95 concerning conservation areas (with which I have found no conflict), these are the most important for determining the appeal since they relate to the appropriateness of the principle of the development. Footnote 7 of the NPPF explains that, for housing proposals, where there is not a five year supply of deliverable housing sites, as is the case in Braintree, the most important policies are out-of-date. That does not mean that the weight to be accorded those policies is necessarily greatly reduced. Paragraph 213 of the NPPF is relevant which explains that due weight should be given to existing policies according to their degree of consistency with the NPPF.
214. The level of housing included in Policy CS1 derives from the withdrawn East of England Regional Strategy and no longer applies. Its weight is limited, although the references to sustainable and mixed-use growth locations are consistent with paragraph 72 of the NPPF which explains that the supply of large numbers of new homes can be achieved through significant extensions to towns and that their size and location should support a sustainable community. As Policy RLP 2 has the effect of restricting land for housing by establishing town development boundaries and village envelopes, its weight is also reduced. I take a different view in respect of Policy CS5, which not only seeks to restrict development but also to protect and enhance landscape character, consistent with paragraph 170(b) of the NPPF. For this reason I agree with Inspectors who determined a series of housing appeals in 2017 that it merits more than moderate weight [97]. The most relevant part of Policy CS8 requires development to have regard to the character of the landscape: both this provision and that of Policy RLP 80 to avoid detriment to distinctive landscape features also resonate with paragraph 170(b) of the NPPF and merit similar weight to Policy CS5. I note that Policies CS9 and RLP 100 do not provide for a balance of harm against benefits, but they reflect the protection for the setting of listed buildings in the NPPF and the statutory requirement in Section 66 of the Act.
215. Given the location of the appeal site in the countryside, and its implications for the significance of Naylinghurts and the character and appearance of the area, I find that the proposal would conflict with the Development Plan considered as a whole.

## ***Other considerations***

### *Housing land supply*

216. Housing land supply was discussed at the inquiry on the basis of the LPA's five years assessment at 30 June 2018. In accordance with paragraph 60 of the NPPF, the level of housing need was calculated using the standard method. On 20 September 2018 (shortly before the inquiry closed) the 2016 based household projections were published. It was not possible for the five years assessment to be recalculated at this stage of the inquiry, and this may be a matter on which the Secretary of State wishes to receive further representations [91].
217. The current assessment shows a supply of 3.91 years' housing land [128]. The shortfall of just over a year is equivalent to 1,330 dwellings. These figures were not disputed by the Appellant. The LPA pointed to an improving position in respect of supply, with planning permission granted for 2,312 dwellings in 2017/18, a figure well in excess of the then target of 716dpy, and permission for a further 667 was granted in the first quarter of 2018/19 [129]. This, though, is a short period of time. Moreover, it is acknowledged that the likely development on strategic growth sites would not eradicate the shortfall [129], and there is in any event uncertainty about the rate of progress of the ELP, and consequently the provision of a five years' supply by that route [33].
218. The Appellant has calculated that 200-270 dwellings would be completed within the five years' period [73]. A subsequent letter from Kier Living (a proposed development partner) refers to annual delivery of 100-150 dwellings, producing a range of 275-412 dwellings in the five years' period [73]. There is no clear reason for this uplift in delivery, and it merits limited weight. Taking the upper point of the Appellant's range, about 18% of the dwellings on the site could be expected to contribute to the five years' supply, with the remainder coming forward in the longer term. That is an important contribution to which I attach significant weight.

### *Affordable housing*

219. The scheme would provide a policy compliant level of affordable housing [17, 25]; that would amount to 450 dwellings in total and 60-81 in the five years period. There is a clear need for affordable accommodation to be provided in Braintree, with an annual requirement for 212 units. The LPA has not disputed the Appellant's evidence that over the last five years there has been a shortfall in provision of 536 affordable homes. The appeal proposal would not bring forward any more affordable accommodation than is required by the Development Plan, but it would nevertheless make an important contribution to meeting the need for such dwellings which carries significant weight.

### *Sustainable travel*

220. A range of sustainable travel measures are included in the scheme, including works to the Flitch Way, footway and cycle way links, and a bus service. These measures would provide a benefit to the existing community, although their primary purpose is to ensure that appropriate opportunities for sustainable transport modes are available in connection with the proposed development, and I have reached the view that conditions and obligations are necessary for this purpose. The benefits to the wider community merit some limited weight.

### *The primary school and education contributions*

221. The Appellant draws attention to paragraph 94 of the NPPF which refers to the importance of a sufficient choice of school places being available to meet the needs of existing and new communities. As places would be needed for the number of children concerned, irrespective of whether the development proceeds, it is suggested that the site for a primary school and the education contributions, which would be secured by planning obligations [8], constitute a public benefit [77]. However the availability of housing may well have an influence on household formation and the numbers of children. Even if this is not the case, the need for a primary school on the site and for the specified contributions towards its provision and for early years and childcare purposes and secondary education purposes in the Braintree area arises from the proposal for a major residential development of the size proposed in this location. Only a small number of school places would be available for the wider community [138]. In the chapter of the NPPF on plan-making, paragraph 34 refers to the type of contributions expected from development. Education is included in the list of infrastructure which could attract a contribution. I find that the provision of a primary school site within parcel A and the commitment to education contributions are necessary mitigation for the appeal proposal, with some limited weight attaching to the surplus school places.

### *Open space and sports facilities*

222. The development would include a minimum of 17.65ha of open space, somewhat more than the requirement of 15.85ha derived from Policy CS10 [19, 26]. However some of the open space may not be publicly accessible due to the need to provide mitigation for protected species [139], and the masterplan shows the playing fields at the western end of the site close to Rayne, rather than the larger settlement of Braintree. The open space would no doubt be used to some extent by existing residents, but its purpose is essentially to ensure a satisfactory standard of development. I give only limited weight to the availability of open space for the existing community.

223. Financial contributions of £27,000 towards improving cricket facilities at Rayne and up to £1,414,255 towards sport and recreational facilities in the Panfield Lane growth location [80] would address the increased pressure from the additional population. They represent mitigation, and are not benefits of the proposed development.

### *The local centre and employment land*

224. The proposal includes a local centre and employment land [19]. That is consistent with the promotion of mixed-use growth locations in Policy CS1. Although I have found that the weight of that policy is limited, that relates to its housing provision, and the references to sustainable and mixed-use growth locations are consistent with paragraph 72 of the NPPF (above, para 214). The development of a mixed use site has enabled the Appellant to take account of the internalisation of a proportion of vehicle trips in assessing the effect of traffic generation on the local highway network [70]. I note, moreover, that the LPA takes the view that the level of employment land and the size of the local centre are less than what might be expected, referring to strategic sites proposed in the ELP and the 2018 Retail Update Study [134, 135]. I am mindful that the inclusion of these elements in the scheme is consistent with paragraphs 80 & 92

of the NPPF. However the local centre would primarily serve the new residential development, and there is nothing before me to indicate that the provision of a relatively modest area for B1 uses is of significance to the supply of employment land. Accordingly I have reached the view that the inclusion of employment land and a local centre carries no more than limited weight in support of the scheme.

### *Economic considerations*

225. The Appellant refers to employment including the provision of 151 full-time equivalent construction jobs and 123 additional jobs in the local impact area during the construction period [78]. I anticipate that a smaller number of permanent jobs would be created in the B1 units and the local centre. Other jobs would be created in the supply chain and there would be increased spending in locally in shops and on services. Paragraph 80 of the NPPF says that significant weight should be placed on the need to support economic growth and productivity, but these are generic benefits which would apply equally to any large housing scheme.
226. Insofar as tax receipts and the payment of the new homes bonus is concerned, I am mindful that paragraph 21b-011 of PPG advises that it would not be appropriate to make a decision based on the potential for the development to make money for a local authority. Overall, I consider that the economic benefits of the proposal carry moderate weight.

### *Essex Coast RAMS*

227. The appeal site is within the zone of influence of European sites covered by the Essex Coast RAMS. The provision of SANGs as part of the development [37] could be secured by a condition. A financial contribution is also sought, but at the date of the inquiry no information was available on the level of contribution required [9]. Consequently, although the principle of providing a contribution towards the provision of off-site strategic measures is appropriate to assist in safeguarding the European sites, matters could not progress beyond the preparation of a draft planning obligation [85]. In the absence of an obligation, the Appellant and the LPA suggested that a scheme concerning the funding of off-site measures could be secured by means of a condition.

### ***Planning obligations***

228. I have already referred to obligations concerning sports and recreation facilities (the community facilities contribution), traveller accommodation, the Flich Way, highway works, the provision of a bus service and other measures relating to sustainable travel, education contributions, provision of the primary school site, and mineral extraction. Open space would be required as part of the new development and a planning obligation also makes provision for the necessary management arrangements. Given the size of the development, it is important that facilities for recycling are provided on-site in accordance with Policy RLP 74 of the LPR. The additional population would increase pressure on health facilities, and I am satisfied that a healthcare contribution should be provided as advised by NHS England. One of the benefits of the development would be a contribution to the supply of affordable housing, and an obligation is put forward which would ensure a level of provision compliant with Policy CS2 of the CS.

229. Insofar as the provisions of the planning obligations in the executed planning agreement are concerned, I am satisfied that the statutory tests in Regulation 122 of the Community Infrastructure Levy Regulations are met, and these provisions are material considerations in the appeal decision.

### **Conditions**

230. I have considered the suggested conditions (CD9.44) in the light of the advice in PPG and the discussion on conditions at the inquiry. I have already referred to conditions concerning restrictions on the height of buildings, the density of housing, the number of dwellings, highway works, SANGs and a scheme for off-site measures in connection with the Essex Coast RAMS. If the appeal is allowed and planning permission granted, it would also be appropriate for conditions on the following matters to be imposed. For the avoidance of doubt and in the interests of proper planning, it is important that the development is carried out in accordance with the specified plans. Given the size of the development it is appropriate that it proceeds in a phased manner, and reserved matters should be prepared in accordance with the parameter plans. Reserved matters should also include details of floor levels. To ensure that the sustainability credentials of the development are achieved, conditions are required concerning the construction of the local centre and the marketing of the employment land.

231. The site is close to the A120 and Pods Brook Road, both of which are busy routes. Reserved matters for housing should, therefore, be accompanied by a noise report demonstrating that that specified noise levels would be achieved. An arboricultural method statement, including a tree protection plan, is needed to safeguard existing trees which are intended to be retained. To encourage sustainable travel, charging facilities for battery powered vehicles should be provided. A species and habitat management plan is important in the interest of nature conservation, and for the same reason, a scheme of bat roosting and bird nesting opportunities and a construction environmental management plan would be required. Details of foul and surface water drainage should be submitted to ensure that the site is satisfactorily drained, and, to minimise flood risk, ground levels within the flood plain of the River Brain (flood zones 2 & 3) should not be raised.

232. To ensure a satisfactory standard of development, conditions are required to address the risk of contamination. A construction method statement would assist in safeguarding the living conditions of neighbours, and to provide an opportunity for archaeological investigation a programme of evaluation should be approved.

### **Overall conclusions**

233. Notwithstanding the reduced weight that applies to several policies, I have found that the proposed development would be contrary to the Development Plan considered as a whole. the appeal should, therefore, be dismissed, unless material considerations indicate otherwise.

234. The first balancing exercise to be undertaken is that required by paragraph 196 of the NPPF, which requires that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, as is the case here in respect of the setting of Naylinghurst, then that harm should be weighed against the public benefits of the proposal. The provision of additional housing land and affordable housing are both public benefits which carry significant

weight. The economic benefits arising from development on the site merit moderate weight. In addition I attach limited weight to the benefits to existing residents from sustainable travel measures, some surplus school places and the provision of open space, and also from the inclusion of a local centre and employment land in the scheme. The harm to the significance of Naylinghurst, due to the adverse effect on the setting of this listed building, carries great weight. Nevertheless, having regard in particular to the need for additional housing in Braintree, I consider that the public benefits outweigh the harm to the significance of the listed building.

235. The NPPF is an important material consideration. As Braintree does not have a five years' housing land supply, the policies which are the most important for determining this appeal are out-of-date, and paragraph 11(d)(ii) requires that permission be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed the policies in the NPPF taken as a whole. There are no additional benefits to the public benefits which I have identified above. In addition to the harm to the significance of the listed building, I give considerable weight to the harm to the landscape of the site and visual amenity from the Flitch Way and footpaths within parcel B. There would also be an adverse effect on the LCA and the visual impact from the access on Pods Brook Road carries some limited additional weight. Recognition of the intrinsic character and beauty of the countryside and conservation of heritage assets are acknowledged as important in the NPPF. These adverse impacts would significantly and demonstrably outweigh the benefits of the proposal which I have identified. Accordingly the outcome of the tilted balance in paragraph 14 of the NPPF does not indicate that a decision should be taken other than in accordance with the Development Plan.

236. Although it does not relate to a provision of the NPPF, the appeal proposal would appreciably diminish the sense of separation between the settlements of Braintree and Rayne, and this further harm reinforces my view that the proposal would be unacceptable.

### **Recommendation**

237. For the reasons given above, and having regard to all matters raised, I recommend that the appeal be dismissed and planning permission refused. Should the Secretary of State reach a different conclusion on the merits of the appeal, I recommend that the conditions in the Annex to this report should be imposed on a grant of planning permission.

*Richard Clegg*

INSPECTOR

## **ANNEX - SCHEDULE OF SUGGESTED CONDITIONS**

- 1) No development shall take place within any phase of the development until full details of the access to and within that phase, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out as approved.
- 2) Prior to the submission of the first application for Reserved Matters approval, a phasing strategy which accords with the order of phases shown on drawing 3502 Version D 'Parameter Plan 2 - Phasing' shall be submitted to and approved by the Local Planning authority, save that the area identified as 'Phase 6' on that drawing shall be provided as public open space prior to occupation of the 350<sup>th</sup> dwelling. The phasing strategy shall include:
  - (a) for each phase, details of the indicative number of dwellings to be provided, the indicative housing mix (including tenure), the indicative open space to be provided, pedestrian and cycle connections;
  - (b) the approximate locations of the travellers site and recycling facilities; and
  - (c) an updated phasing plan which reflects the fact that Phase 6 will need to be delivered prior to occupation of the 350<sup>th</sup> dwelling.

The development hereby approved shall be carried out in general accordance with the approved phasing strategy.

- 3) Application for approval of the reserved matters within the first phase shall be made to the local planning authority not later than two years from the date of this permission. All subsequent reserved matters applications shall be submitted to the local planning authority not later than 10 years from the date of permission.
- 4) The development hereby permitted shall begin no later than two years from the date of approval of the last reserved matters to be approved for any phase.
- 5) The development hereby permitted shall be carried out in accordance with the general arrangement shown on the following approved plans:
  - (a) Site Location Red - ref 1001 revision J (Plan A).
  - (b) Pods Brook Road access roundabout and carriageway widening - ref DR15 (Plan B).
  - (c) Rayne Road Site Access - Ref DR12 revision A (Plan C).
- 6) Before the submission of the reserved matters applications for the phase that includes the local centre within the development hereby permitted, a scheme identifying the facilities to be provided within the local centre shall be submitted to and approved in writing by the local planning authority. The local centre scheme shall include details of the size, extent, and content of those facilities, and details of a marketing strategy to secure tenants and/or occupiers of those facilities. The facilities shall include provision for a convenience food retail store (A1 use) of up to 200m<sup>2</sup>, car parking associated with the local centre, and refuse storage. The

marketing strategy hereby approved shall be carried out in accordance with the approved scheme.

No more than 500 dwellings within the development hereby permitted shall be occupied until the facilities described above have been completed (excluding internal fitting out) in accordance with the approved scheme.

- 7) Before the submission of the Reserved Matters applications which include the employment land within the development hereby permitted a scheme identifying the facilities to be provided on the employment land shall have been submitted to and approved by the local planning authority. For the purposes of this condition the scheme shall include proposals to secure the following:

- (a) The range of employment uses.
- (b) The marketing strategy to secure occupiers and/ or tenants.
- (c) Car parking associated with the employment land.

The marketing of the employment land hereby permitted shall be carried out in accordance with the approved marketing strategy.

- 8) The details of the Reserved Matters submitted pursuant to this permission shall be in accordance with the following parameter plans:

- (a) Parameter Plan 1, Land Use - Ref 3501 Version D.
- (b) Parameter Plan 2, Phasing - Ref 3502 Version D.
- (c) Parameter Plan 3, Building heights – Ref 3503 Version F.
- (d) Parameter Plan 4, Density – Ref 3504 Version F.
- (e) Parameter Plan 5, Vehicle movement – Ref 350 Version D.
- (f) Parameter Plan 6, Leisure access – Ref 3506 Version D.
- (g) Parameter Plan 7, Landscape – Ref. 3507 Version D.
- (h) Parameter Plan 8, Drainage – Ref 3501 Version D.

Building heights shall not exceed the upper limit shown on Parameter Plan 3, Building heights – Ref 3503 Version F, and densities shall not exceed the upper limit shown on Parameter Plan 4, Density – Ref 3504 Version F. no more than 1203 dwellings shall be constructed in the development hereby permitted.

- 9) 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.

The details shall be provided in the form of site plans showing sections across the site at regular intervals with the finished floor levels of all proposed buildings and adjoining buildings. The development shall be carried out in accordance with the approved levels.

- 10) Any reserved matters application relating to scale or layout shall be accompanied by a noise report demonstrating that the indoor ambient noise levels for the proposed dwellings will comply with the requirements of table 4 of BS 8233 Guidance on Sound Insulation and Noise Reduction for

Buildings (2014) and that the upper guideline noise level of 55dB(a) will be achieved for all outside amenity space such as gardens and patios which serve dwellings. The development shall be carried out in accordance with the approved noise report.

- 11) As part of the submission of the first reserved matters application as detailed within Condition No 1, an arboricultural method statement (AMS) shall be submitted and approved in writing by the local planning authority. The AMS should be produced in accordance with BS 5837:2012 Trees in relation to design, demolition and construction.

The AMS shall 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 qualified project arboricultural consultant who will be responsible for monitoring the implementation of the approved DTPP, along with details of how monitoring will be undertaken (including frequency of visits and key works which will need to be monitored) and recorded. The development will be carried out in accordance with the approved AMS and DTPP. Following each site inspection during the construction period the project arboricultural consultant shall submit a report to the local planning authority.

The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities within each phase of the development, and shall remain in place until the completion of the development. The local planning authority shall be notified in writing at least five working days prior to the commencement of development on site.

- 12) No more than 550 dwellings shall be occupied until the Millennium Way Slip Roads scheme (between the A120 and Millennium Way) has been completed and opened to traffic.
- 13) Each reserved matters application for layout shall include details for the provision of charging facilities for battery powered vehicles to serve every dwelling within that phase of the development. The development shall be carried out in accordance with the approved details, and prior to the occupation of each dwelling the approved charging point(s) shall be provided and shall be retained in the approved form thereafter.
- 14) No development or any site clearance shall take place on any phase until a species and habitat management plan has been submitted to, and approved in writing by, the local planning authority. The species and habitat management plan shall include updated protected species surveys for that phase (as agreed in writing with the local planning authority prior to the commissioning of the surveys). The updated survey reports shall be used to develop the species and habitats management plan which will include a mitigation strategy for the listed species. The development shall be carried out in accordance with the approved species and habitat management plan.

To demonstrate compliance with the species and habitat management plan a monitoring report shall be submitted to the local planning authority every three years, with the first such report being produced no later than three years after the first dwelling is occupied on the development.

- 15) No development shall take place on any phase until a construction environmental management plan (CEMP) for that phase has been submitted to, and approved in writing by, the local planning authority. The CEMP shall include:
- (a) A risk assessment of potentially damaging construction activities and measures to avoid or reduce impact during construction.
  - (b) Identification of biodiversity protection zones.
  - (c) The location and timing of sensitive works, to avoid harm to biodiversity feature, including nesting birds.
  - (d) The times during construction when specialist ecologists need to oversee works on site.
  - (e) The role of an ecological clerk of works, and lines of communication; and
  - (f) The use of protective fences, exclusion barriers and warning signs.

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

- 16) No development shall take place on any phase until a scheme of bat roosting and bird nesting opportunities within buildings on that phase has been submitted to, and approved in writing by, the local planning authority. The scheme shall include the number, specification and location of bat roosting and bird nesting features, and a commitment to installation under the guidance of an appropriately qualified bat consultant. All features shall be installed prior to the first occupation of the building concerned, and they shall be retained thereafter.
- 17) No works shall take place on any phase until a detailed surface water drainage scheme for that phase 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. Each scheme shall subsequently be implemented prior to occupation of the phase to which that scheme relates. In particular each scheme shall provide for the following mitigation measures:
- (a) A detailed drainage strategy for the whole site following the outline details within the approved Flood Risk Assessment (FRA).
  - (b) A detailed drainage strategy following the overall site drainage strategy. Any sustainable drainage system (SuDS) features shared between different phases must be clearly shown, including regional SuDS features which have to be in place ahead of each phase of the development.
  - (c) Each phase of the development shall be based on the drainage strategy within the approved FRA.
  - (d) The drainage strategies for each phase of the development must be accompanied by hydraulic modelling calculations showing the

performance of the drainage system for all events up to and including the 1 in 100 year plus climate change.

- (e) Sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- (f) Run-off management within the entire site and each phase of the development must prioritise the use of SuDS both as a means of water conveyance and to provide source control, water quality treatment and bio-diversity enhancement. Above ground SuDS features should be used as far as possible.
- (g) A 10% allowance for urban creep should be allowed for in designing the detailed design of all the phases of the development. A clear phasing plan should be submitted together with the detailed design of the entire site.
- (h) Any regional SuDS features must be implemented ahead of any phases of the development. Full details of these must be included within the detailed design strategy for the full site.
- (i) Details of the adoption and maintenance of the SuDS for each phase of the development. Particular attention must be given to the treatment of run-off from highway roads (main access roads within the development) and early engagement with Essex County Council (ECC) Highways must be made if it is proposed to have the SUDS adopted by ECC Highways.

The above measures shall be fully implemented prior to occupation in accordance with the timing / phasing arrangements embodied within the scheme. The development shall be carried out in accordance with the approved detailed surface water drainage scheme.

- 18) No development shall commence in any phase until a maintenance plan detailing the maintenance arrangements for the SuDS within that phase of the development, including who is responsible for different elements of the SuDS and the maintenance activities / frequencies, has been submitted to and approved in writing by the local planning authority. The SuDS shall be maintained in perpetuity in accordance with the approved maintenance plan.

Yearly logs must be kept of maintenance of the SuDS, which should be carried out in accordance with the approved maintenance plan for each phase of the development. The logs must be available for inspection upon a request by the local planning authority.

- 19) Ground conditions within the flood plain of the River Brain (identified as Flood Zone 2 and Flood Zone 3 on the Environment Agency Flood Maps) shall not be raised as part of the development. Raising would include, but not be limited to, any landscaping or levelling of ground to facilitate the construction of buildings.
- 20) No development shall take place on any phase until a scheme of foul water drainage for that phase, including arrangements for its future maintenance, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the

approved scheme before that phase of the development is brought into use or as set out in the approved phasing details.

- 21) Should contamination be found on the site, that contamination shall be made safe and reported immediately to the local planning authority and the site shall be re-assessed and a remediation scheme shall be submitted to and agreed in writing with the local planning authority. Such agreed measures shall be implemented and completed prior to the first occupation of that phase of the development.
- 22) The dwellings hereby permitted shall be constructed in accordance with the details specified in paragraphs 18.32-18.35 of Chapter 18 of the Environmental Statement (Ground Conditions) submitted to the Council on 23 February 2017.
- 23) No development or preliminary groundworks shall commence until a soil management plan has been submitted to, and approved in writing by, the local planning authority. The approved soil management plan shall be adhered to throughout the construction period of the development.
- 24) No development shall commence, including any groundworks, until a statement of construction practice (SCP) has been submitted to, and approved in writing by the local planning authority. The SCP shall provide for:
  - (a) Details of the construction traffic routes to be used to and from the site including details of the links to the local and strategic highway network.
  - (b) Safe access to and from the site, including details of any temporary haul routes and the means by which these will be closed off following the completion of the construction of the development.
  - (c) The parking of vehicles of site operatives and visitors.
  - (d) The location of the site compound and plant and equipment storage.
  - (e) The loading and unloading of plant and materials.
  - (f) The storage of plant and materials used in constructing the development.
  - (g) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
  - (h) Wheel washing facilities.
  - (i) Measures to control the emission of dust and dirt during construction.
  - (j) A scheme for recycling and disposing of waste resulting from demolition and construction works.
  - (k) A scheme to control noise and vibration during the construction phase.
  - (l) Details of any proposed piling, including details of resultant noise and vibration levels.

- (m) Provision of a dedicated telephone number for members of the public to raise concerns and complaints, and a strategy for pre-warning residents of noisy activities and sensitive working hours.
  - (n) A scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction works.
  - (o) Details of how the SCP will be made publicly available.
- 25) No development or preliminary groundworks shall commence on each phase of development until a programme of archaeological evaluation has been secured and undertaken in accordance with a written scheme of investigation which has been submitted to, and approved in writing by, the local planning authority. A mitigation strategy detailing the excavation and preservation strategy shall be submitted to the local planning authority following the completion of this evaluation.

No development or preliminary groundworks shall commence on those areas containing archaeological deposits until the completion of fieldwork, as detailed in the mitigation strategy, and which has been approved by the local planning authority through its historic environment advisors. Within six months of the completion of fieldwork, a post-excavation assessment will be submitted to the local planning authority. This will involve the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report. The development shall be carried out in accordance with the approved written scheme of investigation and mitigation strategy.

- 26) Prior to the submission of the first application for approval of reserved matters, a strategy for the provision of Sustainable Alternative Natural Greenspace shall be submitted and approved by the local planning authority. The strategy shall demonstrate that the development hereby approved will provide:
- (a) High quality, informal, semi-natural areas.
  - (b) Circular dog walking routes of 2.7km within the site and/or with links to surrounding public rights of way.
  - (c) Dedicated 'dogs-off-lead' areas.
  - (d) Signage and information leaflets to householders to promote the areas in (a) – (c) for recreation.
  - (e) Dog waste bins.
  - (f) Details of the timing of provision of the above measures prior to the first occupation of any dwelling hereby permitted.
  - (g) Arrangements for the long-term management and future maintenance of the provisions in (a) – (e).

The development hereby permitted shall be carried out in accordance with the approved strategy.

- 27) Prior to the submission of the first application for approval of reserved matters in any phase of the development hereby permitted, a scheme for the relevant phase of the development related to the funding of strategic off site measures in and around identified European sites shall be submitted to the local planning authority. The scheme shall include a payment

schedule and a legally enforceable delivery mechanism for such payment. The financial contributions set out in the payment schedule shall be utilised to fund strategic off site measures in and around designated European sites, for which the development hereby permitted is in the recreational zone of influence as defined by Natural England. The off-site measures shall, so far as possible, be in line with the aspirations of the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy.

Development shall not commence in any phase until the scheme for that phase has been approved by the local planning authority, and the requirements of the legally enforceable delivery mechanism for that phase have been met.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Ms E Dring & Mr A Williams of Counsel	Instructed by the Solicitor to Braintree DC
They called:	
Mr T Murphy IHBC MCIfA	Historic Environment Manager, Essex CC
Mr S J Neesam CMLI	Technical Director, The Landscape Partnership
Mr N Jones MSc	Principal Planner, Braintree DC
Mrs J Lilllott	Principal Solicitor, Holmes & Hills

### FOR THE APPELLANT:

Mr C Katkowski QC & Mr M Dale-Harris of Counsel	Instructed by Mr N Baker
They called:	
Dr J Edis BA MA PhD MCIfA IHBC	Managing Director, Heritage Collective UK Ltd
Mr J Vernon-Smith BSc(Hons) DipArch RIBA RPUD	Director, Urban Design Box Ltd
Mr D Wood MIEEM	Director & Principal Ecologist, ACD Environmental Ltd
Mr M Axon FCIHT	Founding Director, Vectos
Mr A Williams BA(Hons) DipLA DipUD CMLI	Founding Director, Define
Mr P Patel BA MRTPI MRICS	Director, PPML Consulting Ltd
Mr N Baker	Head of Planning & Environment, Clarke Willmott

### FOR NO BROOK GREEN ACTION GROUP:

Mrs L Glancey	Local resident & member of NBGAG
Mrs E Wood	Local resident & member of NBGAG
Mr J Kruger	Owner & occupier of Naylinghurst, and member of NBGAG
Mr A Goldsmith	Local resident & member of NBGAG
Mr J Maas	Local resident & member of NBGAG

### INTERESTED PERSONS:

Mr M Bradley	Strategic Development Manager (North), Transportation & Smarter Travel, Essex CC
Councillor A Hooks	Vice-chair, Rayne Parish Council
Mr A G Adair	Friends of the Flich Way and Associated Woodlands
Mrs S Reynolds	Secretary, Friends of the Flich Way and Associated Woodlands
Mr F Moll	Chairman, The Braintree Society

Mrs K Bowden	Local resident
Miss L Boxall	Local resident
Mrs K Dunnett	Local resident
Mrs K Fraser	Local resident
Ms E Gauntlet	Local resident
Mr J Jemison	Local resident
Mrs N Leivers	Local resident
Miss T Maas	Local resident
Mrs W Moss	Local resident
Mr S Trippett	Local resident

## **CORE DOCUMENTS – SUPPLEMENTARY LIST<sup>135</sup>**

### **CD4 ES documents**

CD4.8 Letter dated 11 July 2018 from Mr Baker to Mr Jones concerning relocation of the primary school site and ES Addendum; School land plan.

### **CD6 Appeal documentation**

CD6.7 Planning statement of common ground.  
CD6.8 Highways statement of common ground.  
CD6.9 Statement of Compliance with CIL Regulations, Braintree DC.  
CD6.10 Erratum sheet in respect of CD6.7.

### **CD9 Documents submitted at the inquiry**

CD9.1 Supplementary landscape plans. Submitted by Mr Williams for the Appellant.  
CD9.3 Sustrans Technical Information Note No 8 – Cycle Path Surface Options. Submitted by the Appellant.  
CD9.5 Extracts from the 2012 NPPF and the 2018 consultation draft NPPF. Submitted by the LPA.  
CD9.6 Extracts from Braintree District Settlement Fringes – Evaluation of Landscape Capacity Analysis for Braintree and environs. Submitted by the LPA.  
CD9.7 Mr Katkowski’s & Mr Dale-Harris’s opening statement for the Appellant.  
CD9.8 Ms Dring’s & Mr Williams’s opening statement for the LPA.  
CD9.9 Mrs Glancey’s opening statement for NBGAG.  
CD9.10 Plan of Rayne Conservation Area and public rights of way in the vicinity of the appeal site. Submitted by the LPA.  
CD9.11 Braintree District Cycling Action Plan, Essex Highways, 2018. Submitted by the Appellant.  
CD9.13 North Essex Garden Communities – West of Braintree – Concept Framework, AECOM, 2017. Submitted by the LPA.  
CD9.14 Review of Braintree District Local Plan – Green Wedge Policy – Final Report, Chris Blandford Associates, 2003. Submitted by the LPA.  
CD9.16 Extracts from Essex Minerals Local Plan.  
CD9.17 Letter dated 2 September 2018 from Mr Jemison.  
CD9.18 Miss Boxall’s statement.  
CD9.19 Miss Maas’s statement.

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<sup>135</sup> Items which form part of other documents are not listed separately.

- CD9.20 Mrs Reynolds's statement.
- CD9.21 Mrs Dunnett's statement.
- CD9.22 Mrs Moss's statement.
- CD9.23 Mrs Fraser's statement.
- CD9.24 Mr Moll's statement on behalf of The Braintree Society.
- CD9.25 Bundle of documents concerning highway matters. Submitted by NBGAG.
- CD9.26 Mr Bradley's statement on behalf of Essex CC.
- CD9.27 Email dated 12 September 2018 from Mr Kruger to Mrs Wood concerning Naylinghurst.
- CD9.28 Mr Jones's note on a current planning application, the emerging Local Plan and housing land.
- CD9.29 Development Management Policies, Essex CC, 2011.
- CD9.30 Email dated 13 September 2018 from Strutt & Parker concerning Naylinghurst.
- CD9.32 Letter dated 9 September 2018 from Mrs A M Bright.
- CD9.33 Mr Neesam's revision to table 10.1 of the LVIA (included in Document L4, appendix 1).
- CD9.34 Mr Neesam's Flich Way view analysis.
- CD9.35 Mr Axon's summary note on transport.
- CD9.36 Mrs Leivers's statement.
- CD9.37 Mr Patel's calculation of five year housing land contribution from strategic growth locations.
- CD9.38 Mr Jones's note concerning Colchester BC's position on the emerging Local Plan.
- CD9.39 Email correspondence between Vectos and Highways England concerning the Millennium Way slip roads. Submitted by the Appellant.
- CD9.40 Schedule of measurements of the width of the Flich Way. Submitted by the Appellant.
- CD9.42 Bundle of representations to application ref 18/01065/OUT which refer to the appeal proposal.
- CD9.43 Rayne Village Hall & Playing Field Committee, List of projects for funding from planning obligation monies, together with cost estimates in email dated 21 September 2018 from Mrs Wood.
- CD9.44 Schedule of draft conditions prepared by the Appellant and the LPA.
- CD9.45 Draft unilateral undertaking relating to the appeal proposal. Submitted by the Appellant.
- CD9.46 Planning agreement relating to the appeal proposal.
- CD9.47 DVD and photographs of highway conditions on Pods Brook Road & Rayne Road. Submitted by NBGAG.
- CD9.48 DVD showing aerial view of the appeal site from a drone. Submitted by NBGAG.
- CD9.49 Plans for inquiry site visits.
- CD9.50 Mrs Bowden's statement.
- CD9.51 Mr Trippett's statement.
- CD9.52 Extracts from transport assessments for Sainsbury's store and mixed-use development, Braintree. Submitted by the Appellant.
- CD9.53 Mrs Wood's closing submissions on behalf of NBGAG.

- CD9.54 Ms Dring's & Mr Williams's closing submissions on behalf of the LPA.
- CD9.55 Plan of public rights of way in the vicinity of the appeal site.
- CD9.56 Mr Katkowski's & Mr Dale-Harris's closing submissions on behalf of the Appellant.

### **THE LPA'S DOCUMENTS**

- L1 Mr Murphy's proof of evidence
- L2 Appendices to Document L1
- L3 Mr Neesam's proof of evidence
- L4 Appendices to Document L3
- L5 Mr Neesam's rebuttal proof of evidence
- L6 Mr Jones's proof of evidence
- L7 Appendices to Document L6
- L8 Mr Jones's rebuttal proof of evidence
- L9 Appendices to Document L8

### **THE APPELLANT'S DOCUMENTS**

- A1 Dr Edis's proof of evidence
- A2 Appendices to Document A2
- A3 Mr Vernon-Smith's proof of evidence
- A4 Appendices to Document A3
- A5 Mr Vernon-Smith's rebuttal statement
- A6 Appendices to Document A5
- A7 Mr Wood's proof of evidence
- A8 Appendices to Document A7
- A9 Mr Axon's proof of evidence
- A10 Appendices to Document A9
- A11 Mr Axon's rebuttal statement
- A12 Mr Williams's proof of evidence
- A13 Appendices to Document A12
- A14 Mr Williams's rebuttal statement
- A15 Appendices to Document A14
- A16 Mr Patel's proof of evidence
- A17 Appendices to Document A16
- A18 Mr Patel's rebuttal statement
- A19 Appendix to Document A18

### **NBGAG'S DOCUMENTS**

- N1 Mrs Wood's proof of evidence
- N2 Mrs Wood's rebuttal proof of evidence
- N3 Appendices to Document N2
- N4 Mr Kruger's proof of evidence
- N5 Mr Goldsmith's proof of evidence
- N6 Appendices to Document N5
- N7 Mr Maas's proof of evidence on coalescence
- N8 Mr Maas's proof of evidence on highways
- N9 Appendices to Document N8

## **OTHER DOCUMENTS**

- O1 List of core documents.<sup>136</sup>
- O2 Notification of appeal.
- O3 Correspondence received in response to Document O2.
- O4 Notification of ES Addendum.
- O5 Correspondence received in response to Document O4.
- O6 Notification of the inquiry.
- O7 Review of CD8.10 by FOFW.
- O8 Councillor Hooks's statement on behalf of Rayne Parish Council.

## **PLANS**

- A Site Location Plan ref 1001 revision J.
- B Pods Brook Road access roundabout and carriageway widening – ref DR15.
- C Rayne Road Site Access – Ref DR12 revision A.
- D Springwood Drive roundabout works – ref DR13 revision A.
- E Springwood Drive roundabout works – ref DR18.
- F Springwood Drive roundabout works – ref DR18 revision A.
- G Pierrefitte Way/ Aetheric Road/ Rayne Road junction works – ref 0049/1607/101.
- H A120 north roundabout works – ref DR14 revision C.
- I A120/ Millennium Way slip roads – ref 2301.

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<sup>136</sup> Document O1 is the list of core documents submitted on the last day of the inquiry. It should be read with the supplementary list above.



# Ministry of Housing, Communities & Local Government

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## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### SECTION 2: ENFORCEMENT APPEALS

#### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.