

PLANNING COMMITTEE AGENDA

Tuesday, 26th September 2023 at 7.15pm

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

THIS MEETING IS OPEN TO THE PUBLIC

Members of the public will be able to view and listen to this meeting via YouTube.
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<http://www.braintree.gov.uk/youtube>

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 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

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https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy

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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

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 5th 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.

5a App. No. 22 03221 OUT - Land South of Chapel Road, RIDGEWELL **6 - 42**

5b App. No. 23 00266 FUL - Park Gate Cottages, Beazley End, WETHERSFIELD **43 - 64**

5c App. No. 23 01901 VAR - Phase 4 Land North East of Rectory Lane, RIVENHALL **65 - 105**

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.

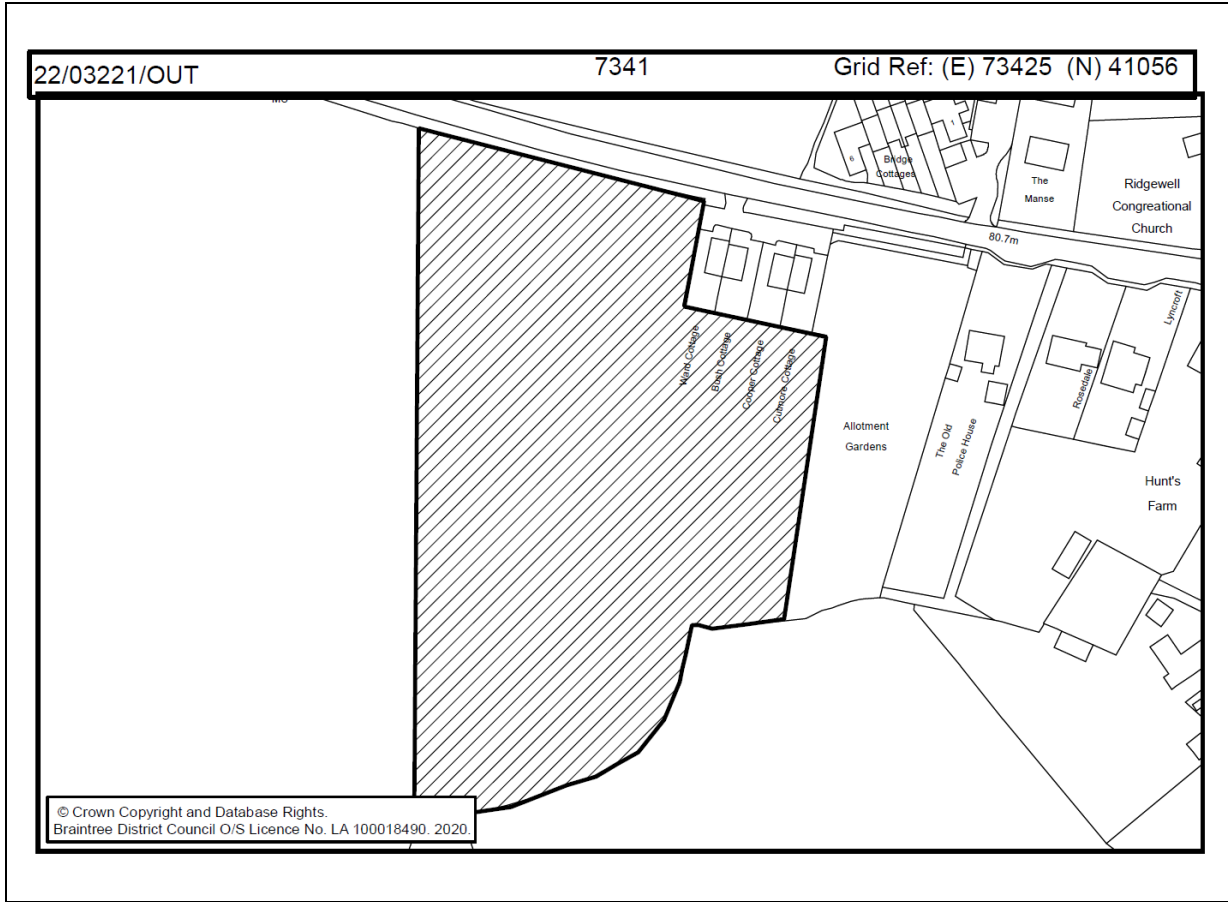
PRIVATE SESSION

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.

Report to: Planning Committee	
Planning Committee Date: 26th September 2023	
For: Decision	
Key Decision: No	Decision Planner Ref No: N/A
Application No:	22/03221/OUT
Description:	Outline planning permission with all matters reserved apart from access for development of up to 24 dwellings including details of access into and within the site, parking arrangements, garages, open space, landscaping, drainage measures and all other associated works.
Location:	Land South of Chapel Road, Ridgewell
Applicant:	Q Developments Ltd, C/O Agent
Agent:	Miss Sarah Hockin, Turley, 6th Floor North, 2 Charlotte Place, Southampton, SO14 0TB
Date Valid:	23rd November 2022
Recommendation:	It is RECOMMENDED that the following decision be made: <ul style="list-style-type: none"> ▪ That had the Local Planning Authority been in a position to determine the application, that it be REFUSED for the reasons outlined within Appendix 1 of this Committee Report.
Options:	The Planning Committee can: <ol style="list-style-type: none"> a) Agree the Recommendation b) Vary the Recommendation c) Overtake the Recommendation d) Defer consideration of the Application for a specified reason(s)
Appendices:	Appendix 1: Reason(s) for Refusal Submitted Plan(s) / Document(s)
	Appendix 2: Policy Considerations
	Appendix 3: Site History
Case Officer:	Carol Wallis For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2534, or by e-mail: carol.wallis@braintree.gov.uk

Application Site Location:



Purpose of the Report:	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.
Financial Implications:	<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>
Legal Implications:	<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 & 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>
Other Implications:	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.
Equality and Diversity Implications:	<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"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting

	<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>Background Papers:</p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> ▪ Planning Application submission: <ul style="list-style-type: none"> ▪ Application Form ▪ All Plans and Supporting Documentation ▪ All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 22/03221/OUT.</p> <ul style="list-style-type: none"> ▪ Policy Documents: <ul style="list-style-type: none"> ▪ National Planning Policy Framework (NPPF) ▪ Braintree District Local Plan (2013- 2033) ▪ Neighbourhood Plan (if applicable) ▪ Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 An appeal for non-determination has been lodged by the Applicant to the Planning Inspectorate and is currently in progress. Therefore, the Local Planning Authority can no longer determine this application but is required to set out what the decision would have been if a decision had been made.
- 1.2 The application site is about 1.52 hectares in size and is located to the northwest of the village of Ridgewell. The site falls outside but adjacent to the village boundary. It is a greenfield site, currently covered with shrubs and vegetation.
- 1.3 Following the previous refusal under Application Reference 21/00929/OUT and the adoption of the new Local Plan, the Applicant re-submits the same proposal, seeking outline planning permission for up to 24 residential units. Access is to be considered at the outline stage with the matters of layout, appearance, scale, and landscaping being reserved for future consideration.
- 1.4 The proposal is nearly identical to the previous application. Officers do not consider that the Applicant has overcome the previous reasons for refusal. The proposed residential development represents an encroachment to the rural countryside and imposes unacceptable urbanisation that would adversely alter the existing character and appearance of the countryside. The location of the site is not considered to be suitable for a new residential development, and future residents would be heavily reliant on the use of private cars to access services and facilities.
- 1.5 A single point of access off Chapel Road (A1017) is proposed for both vehicles and pedestrians. The proposed internal spine road would have a width of 4.8m with 2m wide footpath on both sides, however, this is not up to adoptable standards. The Highways Authority also raises objection to the proposal due to the Applicant being unable to provide the required visibility and failed to demonstrate that it would be possible to provide, within land under their control and/or highway, a suitable pedestrian connection between the site and existing footway provision linking to the village.
- 1.6 The proposed footpath involves land outside of the application site boundary. Given that it is part and parcel of the development, it should be included within the application for a holistic consideration. However, it requires enlargement of the application boundary to include the additional land which would be a material change to the application and could not be accepted by the Council.
- 1.7 When considering the planning balance and having regard to the adverse impacts outlined above, Officers have concluded that 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 had the Local Planning

Authority been in a position to determine the application that planning permission would have been 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.

2.2 It should be noted that the Applicant has lodged an appeal for non-determination which was subsequently validated by the Planning Inspectorate. Therefore, the Local Planning Authority (LPA) can no longer determine this application but is required to set out what the decision would have been if a decision had been made.

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 is approximately 1.52 hectares in size and is located to the northwest of the village of Ridgewell. The site is located outside but adjacent to the village development boundary.

5.2 The site is a greenfield site and is currently used as an arable field. There are overhead cables running through the middle of the site from north to south. Existing access is made via the shared access with the properties to the immediate east from Chapel Road (A1017).

5.3 The site partially wraps around two pairs of semi-detached dwellings that front onto Chapel Road (A1017), and the eastern site boundary abuts an area of allotments. To the further east are residences within the village. There is a public right of way to the immediate south of the site. To the north, west, and south are open agricultural fields.

5.4 The same proposal was previously refused under Application Reference 21/00929/OUT in November 2021, prior to the adoption of the current Local Plan. The 3 reasons for refusal related to the following: the proposed development represents an encroachment to the countryside and an unacceptable form of urbanisation of the rural countryside setting; failure to provide adequate visibility splays and a safe connection to the existing public footpath network; absence of securing the required planning obligations through a S106 Agreement.

6. PROPOSAL

- 6.1 Following the previous refusal under Application Reference 21/00929/OUT and the adoption of the new Local Plan, the Applicant has re-submitted the same proposal. The application seeks outline planning permission for up to 24 residential units. Access is to be considered at the outline stage with the matters of layout, appearance, scale, and landscaping being reserved for future consideration.
- 6.2 A single point of access off Chapel Road (A1017) is proposed for both vehicles and pedestrians. The proposed internal spine road would be dual width of 4.8m with 2m wide footpath on both sides. A shared drive would then be provided to serve further dwellings. The Applicant also indicated that the overhead cables would be diverted underground as part of the scheme.
- 6.3 Applications for outline planning permission seek to establish whether the nature of a proposed development would be acceptable to the LPA, before a detailed proposal is put forward. An illustrative plan has been provided showing a mix of detached, semi-detached, and terraced dwellings together with a landscaped margin around the site's perimeter.
- 6.4 The application is supported by a suite of documents which include:
- Arboricultural Impact Assessment and Method Statement
 - Design and Access Statement
 - Engagement Summary
 - Flood Risk Assessment (FRA)
 - Heritage Appraisal
 - Illustrative Refuse Strategy
 - Landscape Strategy Plan
 - Landscape and Visual Assessment
 - Planning Statement
 - Preliminary Ecological Appraisal (PEA)
 - Site Access and Visibility Splay Arrangements Plan
 - Speed Survey
 - Transport Statement
 - Topographic Survey

7. SUMMARY OF CONSULTATION RESPONSES

7.1 Anglian Water

- 7.1.1 Anglian Water (AW) has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore, the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991, or in the case of

apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

7.1.2 The foul drainage from this development is in the catchment of Ridgewell Water Recycling Centre, which will have available capacity for these flows.

7.1.3 The sewerage system at present has available capacity for these flows to connect into the Causeway via a gravity connection. If the developer wishes to connect to AW's sewerage network, they should serve notice under Section 106 of the Water Industry Act 1991. AW will then advise them of the most suitable point of connection.

7.1.4 The Applicant has indicated on their application form that their method of surface water drainage is via SuDS. If the developer wishes AW to be the adopting body for all or part of the proposed SuDS scheme the Design and Construction Guidance must be followed. The Applicant should contact AW at the earliest opportunity to discuss their SuDS design via a Pre-Planning Strategic Enquiry. The Lead Local Flood Authority (LLFA) are a statutory consultee for all major development and should be consulted as early as possible to ensure the proposed drainage system meets with minimum operational standards and is beneficial for all concerned organisations and individuals. AW promotes the use of SuDS as a sustainable and natural way of controlling surface water run-off.

7.2 Essex Fire and Rescue Service (Protection)

7.2.1 The following matters need to be addressed before access for fire service purposes can be considered satisfactory:

- Plots 4 and 5 are situated in dead-ends. Dead-end access routes longer than 20m require turning facilities. ADB Vol 1, 13.4 diagram 13.1.
- The access road surface should be capable of carrying 18 tonnes (Essex Appliance Weight). ADB Vol 1, 13.3.

7.2.2 More detailed observations on access and facilities for the fire service will be considered at Building Regulation consultation stage.

7.3 Essex Police

7.3.1 Whilst there are no apparent concerns with the layout, it is noted that bollard lighting is proposed. Bollard light is becoming increasingly popular with developers, however:

- Bollard lighting is not compliant with BS5489-1:2020 because it does not project sufficient light at the right height and distorts the available light due to the 'up-lighting' effect; making it difficult to recognise facial features and as a result causes an increase in the fear of crime (SBD:18:3).
- Can be subject of criminal damage or accidental damage.
- Can be blocked by nearby parked vehicles and other obstructions.

- Can be less efficient requiring a greater number of bollards than would be required if column lighting is used therefore equipment and running costs both financially and ecologically are increased.
 - Contrary to popular belief can be more detrimental to wildlife such as bats due to the up-lighting effect, high light levels directly under the bollards and the increase in locations providing generally higher light levels. That being said in the right place to provide 'wayfinding' it does serve a purpose where British Standard compliance isn't required.
- 7.3.2 Would welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with Policy LPP52 by achieving a Secured by Design (SBD) 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.
- 7.3.3 The Strategic Planning Team has outlined the Essex Police considerations to development and infrastructure change. Some priorities, key considerations and design principles of various documents have been highlighted, including Essex Design Guide, Designing out Crime and Secured by Design, Zero Emission Fleet and Infrastructure Strategy, Traffic Management considerations, PFCC Police and Crime Plan 2021- 2024, Essex Police Force Plan.
- 7.4 Natural England
- 7.4.1 No response received at the time of writing. Previously has no comments to make on the last application (Application Reference 21/00929/OUT).
- 7.5 NHS
- 7.5.1 The proposed development is likely to have an impact on the services of Hedingham Medical Centre which operates within the vicinity of the application site. The GP practice does not have capacity for the additional growth resulting from this development and cumulative development in the area.
- 7.5.2 The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. The Integrated Care System (ICS) would therefore expect these impacts to be fully assessed and mitigated.
- 7.5.3 Request a contribution of £11,800 to be secured through a S106 Agreement towards the increase capacity for the benefit of patients of the primary care network operating in the area.
- 7.6 Open Space Society
- 7.6.1 No response received at the time of writing.

- 7.7 Ramblers Association
- 7.7.1 No response received at the time of writing.
- 7.8 BDC Ecology
- 7.8.1 No objection subject to conditions securing ecological mitigation and enhancement measures, including a landscape and ecological management plan, biodiversity enhancement strategy and a wildlife friendly lighting strategy.
- 7.9 BDC Environmental Health
- 7.9.1 No objection, subject to a number of conditions requested regarding land contamination, noise, piling, air quality, construction and demolition controls.
- 7.10 BDC Housing
- 7.10.1 40% affordable housing would be provided, generally in line with Council's requirement.
- 7.11 BDC Waste Services
- 7.11.1 Objection. The communal collection point for Plots 1 - 4 is beyond the 20m drag distance from where the collection vehicle can safely stop, at approx. 50m away. The waste collection points for Plots 5 through to 8 are also well beyond the 20m drag distance, at approx. 50m each way. The collection point must be no more than 20 metres from where the waste collection vehicle can safely stop.
- 7.12 ECC Archaeology
- 7.12.1 The Essex Historic Environment Record shows that the proposed development lies within an area of potential for below ground archaeological remains associated with Roman activity and medieval settlement activity. An archaeological trial trench investigation will be required to determine the impact of the development on archaeological remains in line with NPPF Paragraph 194. Recommend conditions securing archaeological evaluation prior to commencement of development.
- 7.13 ECC Education, Libraries and Skills
- 7.13.1 When estimating the number of children that a new housing development will generate, and that will require a school place (yield), ECC takes account of the number of houses and flats that are suitable to accommodate children. One-bedroom units and some dwellings, such as student and elderly accommodation, are excluded from the education calculation.

Education

- 7.13.2 With reference to the details above, a development of 24 dwellings with 2 or more bedrooms can be expected to generate the need for up to 2.16 Early Years and Childcare (EY&C) places; 7.2 Primary School places, and 4.8 Secondary School places.
- 7.13.3 There are currently sufficient places available in the area at this time for EY&C places, primary education places, and secondary education places.
- 7.13.4 A contribution toward Post16 education is not required at this time. However, in accordance with ECC Developers' Guide to Infrastructure Contributions (Revised 2020), an Employment and Skills Plan (ESP) should be prepared to set out how the developer will engage with and maximise local labour and skills opportunities.

School Transport

- 7.13.5 ECC has carried out a desktop inspection of the route to the nearest primary school and it would be deemed as available to be walked, accompanied as necessary by an Adult. Therefore, there would not be a requirement for a primary school transport contribution at this time. However, the developer should ensure that safe direct walking and cycling routes to local primary schools are available and engagement with Essex Highways is advised to ensure this is achieved. All sites will be suitably assessed in accordance with the current climate and national and local drive to provide more sustainable modes of travel and to meet the initiative towards active travel provision.
- 7.13.6 Having reviewed the proximity of the site to the nearest Secondary School, the distance is in excess of the statutory walking distance, therefore, ECC will be seeking a School Transport contribution toward Secondary School Transport. The cost of providing this is £23,894.40, Index Linked to 2Q 2021, applying a cost per pupil of £5.24 per pupil.

Libraries

- 7.13.7 ECC may seek contributions to support the expansion of the Library Service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications.
- 7.13.8 The suggested population increase brought about by the proposed development is expected to create additional usage of Sible Hedingham library. A developer contribution of £1,867.20 is therefore considered necessary to improve, enhance and extend the facilities and services

provided and to expand the reach of the mobile library and outreach services. This equates to £77.80 per unit, index linked to April 2020.

Monitoring Fees

- 7.13.9 In order to secure the delivery of the various infrastructure improvements and to meet the needs arising from development growth, ECC needs to monitor Section 106 (S106) planning obligations to ensure they are fully complied with on all matters. ECC has a resultant obligation to ensure the money is received and spent on those projects addressing the needs for which it was sought and secured. To carry out this work, ECC employs a staff resource and charges an administration/monitoring fee towards funding this requirement. The Monitoring Fee will be charged at a rate of £550 per obligation (financial and otherwise).
- 7.13.10 If planning permission is granted, a S106 Agreement to mitigate its impact on secondary school transport and libraries is required. The final payments of the above will be based on the actual dwelling unit mix and the inclusion of indexation.
- 7.14 ECC Highways
- 7.14.1 Objection. The Applicant is unable to provide visibility splays at the proposed site access within land under their control and/or is highway, which accord with the recorded 85th percentile vehicle speeds as set out in the speed survey. The lack of such visibility would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety.
- 7.14.2 The Applicant has not demonstrated it would be possible to provide, within land under their control and/or highway, a suitable pedestrian connection between the proposal site and existing footpath/footpath provision east of the proposal site.
- 7.14.3 The proposal is therefore contrary to Policy DM1 and DM9 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.
- 7.14.4 It is also noted that the access width of 4.8m does not meet adoptable standards. The access for the proposed 24 dwellings should be either a 5.5m access with 2x2m footways or a shared 6m surface, with each side having a hardened and adoptable 0.5m buffer.
- 7.15 ECC Historic Buildings Consultant
- 7.15.1 No objection, subject to conditions to the detailing, materials, form, and appearance of the development, to be assessed at the reserved matters stage, which will be crucial to ensure the development constitutes an enhancement to the area's distinctive character.

7.15.2 This application is a resubmission of a previous application (21/00929/OUT) for the development of the site with 24 dwellings. The layout plan has not altered and includes open spaces to the north and the south of the site and the hedge and tree boundary. These were considered appropriate to reduce any impact on the setting of the nearby Conservation Area and the Scheduled moated site to the south (List UID: 1012097). These measures have been reproduced in the current layout. The proposed development would not reduce the ability to appreciate the significance of the moated site, or the special interest of the Conservation Area.

7.16 ECC SuDS

7.16.1 No objection, subject to conditions to require a detailed surface water drainage scheme for the site, a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction waters and prevent pollution, a maintenance plan for the surface water drainage system and to maintain yearly logs of maintenance.

8. PARISH / TOWN COUNCIL

8.1 Ridgewell Parish Council

8.1.1 Objection. The site is not in the village envelope and is an undeveloped greenfield site not considered in the previous Development Plans.

8.1.2 Ridgewell only has a pub, a village hall, and a primary school. Any employment, shopping or medical visits require car use to outside of the village.

8.1.3 Contradicts with Policies LPP42 and LPP52 in that Ridgewell has no sustainable transport for a development of this size, with safety concerns for a large number of cars exiting the site onto a road known for high speed.

8.1.4 The transport assessment shows a significant number of cars passing the site at 50+ mph, despite measurement done during the Covid period in April 2021. The Parish Council considers that the 30mph zone is required to be extended to the beginning of the Causeway, ideally with a village gateway requiring drivers to stop to oncoming traffic.

8.1.5 The site is not well connected for pedestrians. There is no adequate proposal to show how the 50+ residents will be able to reach the village in all weathers. There is no progress made on these points in this re-submitted application.

8.1.6 In relation to Policy LPP75, residents are concerned that an increase in surface water runoff will exacerbate the existing flooding problems in the sewerage system in Church Lane. In the last 3 years, surface water from other parts of the village has led to 2 major foul water flooding incidents for

residents in Church Lane. The proposal has surface water leading to existing ditches to the north and south of the site, which will directly contribute to the regular flooding of the Congregational Chapel graveyard and feed through to the lower lying village.

9. REPRESENTATIONS

9.1 Representations have been received from 11 addresses, with 10 objecting to the proposal. There is 1 representation neither objecting to or supporting the application but raises concern on the traffic problem and speed control.

9.2 The main reasons of objection are summarised below:

- Contradicts with Local Plan Policies SP3, SP6, and SP7.
- On agricultural land outside the village development boundary and would not preserve or enhance the heritage and character of Ridgewell, the countryside, local environmental or green space.
- No green spaces left/reduce green open space in the village.
- Devaluing the existing properties.
- Harms wildlife.
- The Preliminary Ecological Survey was undertaken in June 2020 which is over 2 years and considered out of date.
- Not supported with an assessment to demonstrate biodiversity net gain can be achieved.
- Limited services and infrastructure in the village.
- Limited local employment, most residents commute to work in London, Cambridge, Bishop Stortford, and other remote destinations.
- Proposal does not provide a shop or amenities to the village.
- No public transport services, so car dependency is high.
- Dangerous stretch of road with cars in excess of 30mph.
- Additional traffic affecting safety of road.
- Limited visibility/sight lines.
- The existing shared driveway should not be used as footpath.
- A new footpath behind the existing houses as an alternative is inappropriate and intrusive.
- The traffic count was outdated as conducted in April 2021 with less traffic.
- Too many/disproportionate amount of new dwellings permitted within 5 years, which is more than the outlined growth proposed for the village in the new Local Plan.
- All roads in the estate should be adoptable tarmac roads of standard width, with lighting and pavements and must be adopted and maintained by Essex County Council.
- Existing drainage issues in the village/near to the Ridgewell Congregational Chapel land.
- The drainage survey shows run off would flow into the drains along the Causeway and into the village centre and down into Church Lane, which experienced flooding issues during 2000 and 2020.

- The submitted FRA is flawed as the existing system cannot cope, leading to more flooding, not where the new houses will be but further down the system in the village centre.
- Surface water needs to be managed appropriately/in a controlled fashion to allow time for the water to drain away.
- Inadequate drainage could affect the historic buildings in centre of village and along both Church Lane and Hall Lane.
- Existing sewerage pipes are not wide enough and the sewerage system is old/seriously under-funded and already struggles to cope with existing demand, would not be able to cope with additional flow.
- Overhead power cables cross the site and should be put underground.
- More parking is required, likely to cause on-street parking as most garages are not used for car parking.
- More cars mean more carbon emissions.
- New residential development should sponsor a local bus/taxi service.
- No proper/safe footpath from the site into the village/path not being looked after.
- Support the retention and improvement of the right of way, which is well used by the villagers.
- Height of new houses should be no higher than neighbouring properties.
- Should be refused on unsustainable ground as reliant on the use of private cars and its negative impacts on climate change, introduction of urbanised character that is out of keeping with the local Conservation Area, which could not adequately address by mitigation planting.
- Landscaped buffer along the western boundary should be greater than 10m in width.
- Benefits of the development through provision of new market and affordable dwellings are not capable of outweighing the harm arising from the proposals. Payments of S106 contributions and CIL charges are not benefits but mitigate the impact of the development on existing local infrastructure.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

10.1.1 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).

10.1.2 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.

- 10.1.3 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.
- 10.1.4 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.
- 10.1.5 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).

10.2 5 Year Housing Land Supply

- 10.2.1 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.
- 10.2.2 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.
- 10.2.3 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%.
- 10.2.4 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.

10.2.5 Nevertheless, as the Council cannot 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.

10.3 The Development Plan

10.3.1 The Council’s statutory Development Plan consists of the Braintree District Local Plan (2013 – 2033).

10.3.2 The site is situated outside of the defined development boundary and has no specific allocation on the Proposals Map of the Adopted Local Plan. Policy LPP1 of the 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’*.

10.3.3 As the site is situated outside of the defined development boundary the submitted proposal represents a departure from the Development Plan, and is contrary to Policy LPP1 of the Adopted Local Plan.

11. SITE ASSESSMENT

11.1 Location and Access to Services and Facilities

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

11.1.2 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.

11.1.3 The site is located within the countryside outside of Ridgewell, albeit the settlement boundary sits to the eastern side of the application site. Notwithstanding this it is necessary to consider the amenities/facilities that are available within close proximity to the site.

- 11.1.4 Ridgewell is identified as a third tier village in the settlement hierarchy that lacks most of the facilities required to meet the day-to-day needs. Ridgewell is a small village with only about 500 population. There is 1 pub, a village hall, a church, and a primary school in the village which are all over 450m away from the site. There is no shop within the village and the only takeaway also ceased operation in 2020. Although there was a bus stop at the junction of A1017 and Church Lane, the bus services have ceased for a number of years. The No.438 service is a school bus service only purported to run through the village at 0720 and 1622 hours respectively. The public transport link is poor and most of the residents are required to travel by private cars to larger towns to meet their day-to-day needs. The site therefore has poor accessibility to services and facilities.
- 11.1.5 There is currently no pavement between the site's frontage and the rest of the village, with pedestrians needing to walk some 60m to access the existing footway on the highway. The Applicant has indicated that a footpath is to be provided to the north of the site to link up with the existing footpath along the allotments. However, it would require private land that is not controlled by the Applicant nor within the highway extent. Although the Applicant obtained outline agreement from the Housing Provider to maintain the highway verge highlighted in pink on Drawing No. 662945-10-01 Rev. J, there is no legal agreement from the landowner provided to confirm the proposed footpath arrangement and the area is outside of the application boundary. Land required to provide the proposed footpath therefore is not included as part of the site and therefore it could not be delivered as part of this proposed development.
- 11.1.6 Although Ridgewell is subject to a 30mph speed limit, the application site entrance falls approximately 40 metres outside this zone in an area covered by the national speed limit. Vehicles will therefore be speeding up to leave the village or travelling at speed with a view to slowing down upon entry into the settlement. In Officers' opinion, having experienced the pedestrian environment, use of the highway for walking is unlikely to be attempted by residents or if it is, not without some difficulty or degree of hazard being posed. In addition, there are no dedicated cycle lanes within the vicinity of the site and in Officer's opinion the nature of the local road network is unlikely to be considered as a favourable cycling environment for the aforementioned reasons.
- 11.1.7 As a consequence of the limited accessibility to other forms of transport to the private motor car, future residents are unlikely to be encouraged to utilise sustainable modes of transport and will largely rely on travel by private cars. In Officer's opinion, development in this location would undoubtedly place reliance on travel by car which conflicts with Policies SP3 and LPP44 of the Adopted Local Plan and the aspirations of the NPPF to locate development where the need for travel can be minimised and the use of sustainable transport modes can be maximised. This weighs against the proposal in the overall planning balance.

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

- 11.2.1 Paragraph 126 the NPPF highlights that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 130 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 11.2.2 Policy SP7 of the Adopted Local Plan sets out place shaping principles, including responding positively to local character and context to preserve and enhance of existing places and their environs.
- 11.2.3 Policy LPP52 of the Adopted Local Plan also seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment. Amongst all the place shaping principles, in particular, it requires all new development to respond positively to local character and context, create well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above use of the private car.
- 11.2.4 This is an outline application where appearance, scale, layout, and landscaping are reserved matters. The application includes an illustrative plan indicating the key aspects of the design and layout, such as access, landscape features and SuDs features. It is indicated that the density of the development of the whole site for up to 24 dwellings would be 15.7 dwellings per hectare (dph). Officers consider that the site could accommodate the quantum of development proposed.
- 11.2.5 The Strategic Housing Market Assessment (SHMA, 2015) identifies that the District would require 75.72% of market dwellings to be 2 to 3 bedrooms properties and 79.33% affordable dwellings would be required to be 1 or 2-bed properties. The indicative housing mix shows that only 60% of the market dwellings would be 2- to 3-bed dwellings, and the remaining 40% of market dwellings would be 4-bed or more; whilst 67% of the proposed affordable dwellings would be 2-bed and 33% would be 3-bed properties. The indicative housing mix is overly focused on larger market units whilst the affordable housing is not meeting the desperate need for smaller units. It is not in line with the SHMA figures and hence its contribution to meeting the District's identified housing need would be reduced. A condition would be required to control the proposed housing mix in order to ensure that it meets the identified housing needs, should approval be given.

11.3 Trees

- 11.3.1 Development along the edge of settlement will add to the general accretion of the built form into the rural agricultural setting of the village and would

erode the open landscaped character of the area. Whilst the illustrative layout plan proposes a landscaped margin to enclose the housing, this domesticated and structured approach would contrast with the open field patterns on this side of the settlement.

11.3.2 Furthermore, the proposed access route will require suitable visibility splays. The visibility splays as shown on Drawing No. 662945-10-01 Rev. J are considered unacceptable to the Highways Authority. A significant proportion of the hedgerow fronting The Causeway would be required to cut back or trimmed and maintained at a low level. The extent of hedgerow removal is unclear due to the visibility issues and such removal is considered to be harmful to the character and appearance of the rural countryside.

11.3.3 In addition, the latest NPPF requires that all new streets to be tree-lined. The indicative site layout shows intermittent tree plantings along the proposed spine road, however, street trees should be planted at a more regular intervals and on both sides of the spine road to create a boulevard style. These trees should not be included in domestic gardens but to be maintained either as part of adopted road or by the future management company/residents' association. Officers are of the view that refinement could be accommodated in the detailed design stage but the planting details including locations and planting schedule would need to be considered as part of the reserved matters in relation to layout and landscape.

11.4 Landscape and Visual Impact

11.4.1 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.

11.4.2 Policy LPP67 of the Adopted Local Plan states that new development should not be detrimental to the distinctive landscape features and development that would not successfully integrate into the local landscape will not be permitted.

11.4.3 The site is within the Natural England National Character Area 86: South Suffolk and North Essex Claylands. Essex County Council's landscape character assessment places the site within the Blackwater and Stour Farmlands (B3). According to the Braintree Landscape Character Assessment (2006), the site falls within B2 Hempstead Farmlands Plateau, which has a high sensitivity to change. The planning guidelines should include "ensuring new development is small-scale and responds to historic settlement pattern, landscape setting and locally distinctive building styles." However, the proposal with 24 dwellings is a major scheme which clearly could not be considered as small-scale and does not follow the suggested planning guidelines.

11.4.4 Development of the chosen site could be seen as a natural completion of the existing development pattern at the northwest of Ridgewell, providing context to the pairs of semi-detached dwellings that are currently separated from the settlement via the allotment field. However, the development would still represent a considerable change in character from an open arable field to a collection of 24 residential dwellings with domestic curtilage, parking, outbuildings, and paraphernalia. Whilst a proportion of viewpoints would place the site in visual context of a backdrop of existing development, therefore reducing the magnitude of change, there are other viewpoints where it would be clearly seen as an encroachment into an undeveloped landscape and an unwelcome urbanisation of a rural landscape.

11.4.5 Although there would be scope to mitigate the visual effects further through a detailed landscape scheme during reserved matters application, Officers are of the view that the proposal would urbanise the open countryside and would therefore be detrimental to the fabric and composition of the local landscape and landscape character areas.

11.5 Impact on Heritage Assets

11.5.1 The site is located approximately 200m from the nearest listed building known as Hunts Farmhouse and cannot be seen within the same street scene context. Other heritage assets are distanced from the site by roads, dwellings, or open fields.

11.5.2 The Historic Buildings Consultant confirms that efforts have been made to reduce the visual impact of the proposed development upon the setting of the Conservation Area within Ridgewell as well as from other nearby heritage assets. The Historic Buildings Consultant states that the illustrative layout is acceptable as a result and the proposed development would not reduce the ability to appreciate the significance of the moated site or the special interest of the Conservation Area, therefore raises no objection on heritage grounds.

11.6 Impact on Neighbour Amenity

11.6.1 The existing semi-detached dwellings fronting The Causeway are known as Ward Cottage, Bush Cottage, Cooper Cottage and Cutmore Cottage respectively (west to east). All four dwellings would experience a change in outlook as a result of the development. Whilst private views are not protected, Officers would be concerned about the potential relationship between proposed Plot 18 and the rear gardens of Bush Cottage and Ward Cottage, with particular regard to obstruction of the outlook. Some regard would also need to be had to address the boundary between the proposed access and the western flank of Ward Cottage, where noise and disturbance from vehicle movements may be expected.

11.6.2 The illustrative site layout plan shows that a scheme could come forward without unacceptable loss of amenity to neighbouring residential properties, providing architectural design and the site layout is sensitively prepared.

11.7 Highway Issues

11.7.1 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 residential residual cumulative impacts on the road network would be severe.

11.7.2 The application proposes that access is considered at the outline stage. It is proposed the development be served by a single point of access off the A1017. The application is supported by a Transport Assessment which considers the existing local highway network, the proposed access, and the impact of the development on the highway network. The Highway Authority has considered the Transport Statement and considers it acceptable for the scale of development proposed.

11.7.3 However, the Highways Authority has raised objection to the development on the grounds that the visibility splays proposed would require the use of land beyond the control of the Applicant. Without a means of controlling or binding such land to be retained obstruction free in order to facilitate the visibility splays now or in perpetuity, the splays cannot be provided in their full form. This would result in restricted visibility that, together with the speed and nature of the highway in this location, would be detrimental to the safety and efficiency of the highway and is therefore not acceptable.

11.7.4 The Highways Authority also object on the grounds that there is no suitable footpath connection from the entrance of the application site into the village. The proposed footpath internal to the site simply terminates at the site's proposed entrance, leaving the development physically separate and unconnected from Ridgewell.

11.7.5 The Applicant also proposes a new footpath to link up to the existing provision in the village, however, it would involve land outside the application site boundary and would also involve third party land. Such alterations of site boundary are fundamental and would not be able to be accepted as revisions and there is currently no legal mechanism to secure the necessary footpath to be provided on third party land.

11.7.6 In response to ECC Highways and Officers' comments, the Applicant indicated that an alternative footpath could be provided to the immediate south and east of the 2 pairs of semi-detached dwellings, to link up to the existing footway to the north of the allotments. However, this also involves land outside of the site boundary and there is no information to demonstrate that the Applicant owns the piece of land in between of Cutmore Cottage and the allotment nor any legal consent from the owner for the proposed footpath.

- 11.7.7 The alternate footpath to the south of the existing dwellings has not been incorporated into the illustrative layout. The sketch provided indicates that all the rear boundary planting for the existing dwellings would be removed to provide such footpath, which is not acceptable. The existing closeboard fencing of the gardens would be exposed and would not be sufficient to provide good security to the existing residents. Brick walls would be required to delineate the private and public space, which means this alternative footpath would be sandwiched between brick walls, resulting in a tunnelling effect with restricted natural lighting and lack of surveillance. This would not create a welcoming environment and thereby discouraging the use by the public. The increase of hard-paved materials highly visible to the public realm would add further harm to the character and appearance of the locality and increase the urbanisation in the rural countryside.
- 11.7.8 To avoid the tunnelling effect and lighting issues, a much wider footpath would be required, and the adjacent plots would need to be re-designed and/or re-aligned in order to fulfil all the design requirements. It is unclear whether there would be sufficient space to provide a well-designed wider footpath without adversely reduce the area for parking and garden size of Plot 18, and how it would impact on the overall site layout.
- 11.7.9 The Highways Authority have also highlighted that the proposed spine road is only 4.8m in width, which does not meet the adoptable standards. To comply, the access would need to be widened to 5.5m with 2m footways on both sides, or a shared 6m surface, with each side having an additional hardened and adoptable buffer of 0.5m.
- 11.7.10 The Applicant has argued that the Council could accept revisions to amend the application site boundary to include the land for proposed footpath. Officers could not agree with this as this would result in enlargement of the application site, which is a material change. Moreover, this would involve lands owned by third party. The Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), require notices to be served on owners of the land requires the Applicant to certify compliance in the application. As the Applicant would not have served the relevant notice prior to submission of the application to the relevant owner(s) and only a Certificate A has been signed in the application form, the LPA would not be lawfully able to determine the application should the application site is enlarged.
- 11.7.11 The Applicant also argues that a Grampian condition could be imposed for the footpath provision. Given that planning permission would be required for the proposed footpath and such footpath connection is part and parcel of the development, the land required for the pedestrian access should be included within the application site boundary to allow for a holistic consideration. The use of Grampian condition is inappropriate and impractical in this instance as the new proposed footway would require a separate planning permission for change of use, which there is no guarantee that it would be approved. As pointed out in the above

paragraphs, there are various concerns in relation to the footpath connection, including ownership issues, the possibility to provide the required standards, extent of land required, impact on public realm, as well as impact on residential amenity, therefore there is currently no reasonable prospect that a suitable and appropriate connection could be achieved.

11.7.12 On this basis, Officers conclude that there would be conflict with the aforementioned policies on unsafe highway grounds.

11.8 Ecology

11.8.1 The Council's Ecology Officer raises no objection to the proposal and is satisfied that there is sufficient ecological information available for determination of this application, subject to conditions securing the mitigation and enhancement measures contained in the PEA, there is no objection to the proposal. Natural England have not raised any comments or stated anything to the contrary.

11.8.2 For these reasons, the proposal would be in accordance with Policy LPP70 of the Adopted Local Plan if the terms of the PEA were secured by a suitable planning condition.

11.9 Archaeology

11.9.1 Essex County Council recommends that conditions to require a programme of archaeological trial trenching and excavation to be undertaken. Such conditions would be required on any outline planning permission.

11.10 Drainage and Flood Risk

11.10.1 Paragraph 166 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. It states that priority should be given to the use of sustainable drainage systems.

11.10.2 Paragraph 174 of the NPPF states that the planning policies and decisions should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

11.10.3 The site falls within Flood Zone 1 with least risk of flooding. However, the north-eastern part of the site has been identified with low risk of surface water flooding whilst the section of A1017 to the immediate north of the site is also subject to high risk of surface water flooding. A Flood Risk Assessment (FRA) has been submitted and has considered the potential impact of the development on surface water runoff rates, given the increase in impermeable areas. An attenuation area is proposed as Sustainable Drainage System in the northern part of the site with a storage capacity of nearly 500m³. The FRA states that it can be demonstrated that surface

water can be managed, such that flood risk to and from the site following development will not increase as a result of the development.

- 11.10.4 Residents have raised concerns over existing drainage provision and provided anecdotal evidence regarding flooding and flood events that have occurred in recent years. Whilst the concerns are noted, it is acknowledged that Essex County Council as Lead Local Flood Authority (LLFA) has considered that FRA and raises no objection, subject to a series of conditions being attached to any permission. These conditions would require a detailed surface water drainage scheme to be provided, details of measures to be put in place to minimise the risk to offsite flooding and appropriate arrangements to be put in place for the maintenance of the drainage system.
- 11.10.5 The LLFA noted the local concerns expressed by the residents of the village and others in the representations, however, they have confirmed that, provided the above conditions are applied to the final drainage design, there should be a decrease in the risk of surface water flood from the development area.

11.11 Construction Activity

- 11.11.1 In order to safeguard the amenity of existing residents in the locality, should the application be approved, a condition is recommended requiring the Applicant to submit for approval a comprehensive Construction Management Plan for each phase of the development covering for example construction access; hours of working; dust and mud control measures; contractor parking; points of contact for existing residents; construction noise control measures and details of any piling to be carried out on site.

11.12 Habitat Regulations Assessment (HRA / RAMS)

- 11.12.1 The application site is located outside of a Zone of Influence and therefore no HRA mitigation is required in this case.

12. PLANNING OBLIGATIONS

- 12.1 Paragraph 57 of the NPPF sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations. The following identifies those matters that the District Council would seek to secure through a planning obligation, if permission is granted on appeal.

12.2 Affordable Housing

- 12.2.1 In accordance with Policy LPP31 of the Adopted Local Plan, new development would be provided to provide 40% affordable housing. The

proposal would provide 9 affordable units and therefore would comply with the requirement, subject to a S106 Agreement being entered into. The Council's Housing Enabling Officer has advised on the unit size and tenure mix of housing which would be sought.

12.3 Open Space

12.3.1 Policies SP6 and LPP78 of the Adopted Local Plan require all development to be supported by the provision of the infrastructure, services and facilities to meet the identified needs arising from the development, which includes good provision of high quality and accessible green space. New developments are required to make appropriate provision for publicly accessible green space or improvement of existing accessible green space in accordance with adopted standards. The Council's Open Space SPD sets out further details on how these standards will be applied. A development of this size would be expected to make provision for on-site amenity green space.

12.3.2 The indicative site layout shows that an open space of about 1,734sq.m would be provided in the southern part of the site, whilst an attenuation area would be provided in the north. These together would provide in excess of the required outdoor open space for development of this size.

12.3.3 As informal outdoor open space is proposed within the scheme, it would need to be designed to be in line with the Council's open space specification. A financial contribution would be sought for outdoor sport, outdoor equipped playgrounds and allotments based upon the formula set out in the SPD. There is also a requirement to secure the on-going maintenance of any public open space provided on site. These would need to be secured as part of the S106 Agreement, should the application be granted permission.

12.4 NHS

12.4.1 The nearest GP surgery directly impacted by this development would be Hedingham Medical Centre, which is already below the recognised standards of provision for the existing population. The development would increase the population and therefore adding to the deficit and would be unsustainable if unmitigated. A financial contribution of £11,800 towards increasing capacity for the primary care network operating in the area would need to be secured by as part of the S106 Agreement.

12.5 Education

12.5.1 ECC has confirmed that a financial contribution towards Secondary School Transport and libraries would be required to be secured by a S106 Agreement, to mitigate the impacts of the development. An Employment and Skills Plan would also be required.

12.6 Summary

12.6.1 Whilst the Applicant has indicated that they would be prepared to enter into an agreement to provide the appropriate infrastructure mitigation, no such agreement is in place at the present time. The development therefore fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Policies SP7 and LPP78 of the Adopted Local Plan.

13. PLANNING BALANCE AND CONCLUSION

13.1 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 LPA 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 assessed against the policies in this Framework taken as a whole.

13.2 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. 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. 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.

13.3 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.

13.4 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.

13.5 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).

13.6 Summary of Adverse Impacts

13.6.1 The adverse impacts and the weight that should be given to these factors are set out below:

Conflict with the Development Plan

13.6.2 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".

13.6.3 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.

Location and Access to Services and Facilities

- 13.6.4 With strictly limited public transport facilities and no footpath connection outside the site to the village, it is highly likely that prospective residents would be heavily reliant on private cars to access facilities for day-to-day living, even to access those limited services available in Ridgewell itself. It is considered that this would be contrary to Policies SP7 and LPP1. Significant weight is attributed to this harm.

Harm to the Character and Appearance of the Area and Landscape Character

- 13.6.5 The proposal fails to provide sufficient information with regards the loss of hedgerows along the A1017 to create the new vehicular access, contrary to Policy LPP67 of the Adopted Local Plan. This weighs against the proposal and is afforded moderate weight.

Highways Considerations

- 13.6.6 The access arrangements for the site (for which approval is sought in this outline application) fail to demonstrate a safe means of access for pedestrians and motor vehicles, leading to an unacceptable degree of hazard for all users of the highway. The lack of suitable visibility splays, the below-standard internal access road, together with poor footpath connections and the heavy reliance on the use of private cars, weigh against the proposal and is afforded significant weight.

13.7 Summary of Public Benefits

- 13.7.1 The public benefits arising from the proposal and the weight that should be given to these factors are set out below:

Delivery of Market and Affordable Housing

- 13.7.2 The development would facilitate the provision of up to 24 new dwellings, of which 40% would be provided as affordable houses. However, the indicative housing mix is not in line with the identified housing needs of the District. In order to afford substantial weight to this benefit, an approval condition altering/controlling the housing mix, size and tenure would need to be imposed to ensure the proposal is in line with the identified housing needs.

Economic and Social Benefits

- 13.7.3 The proposal would undoubtedly deliver economic benefits during the construction period and economic and social benefits following occupation of the development, in supporting local facilities. However, this is no more than any development and therefore this is afforded no more than moderate weight.

13.8 Summary of Neutral Factors

13.8.1 There is no identified harm in terms of amenity, ecology, drainage and flood risks. Subject to approval conditions and careful design and consideration at the reserved matters stage, these matters are considered neutral in the planning balance.

13.8.2 The S106 contributions towards open space, health care, education, library, and skills are required to mitigate the impacts of the development and therefore have neutral impacts in the planning balance.

13.9 Conclusion

13.9.1 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 '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. 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. The Planning Balance is concluded below.

13.10 Planning Balance

13.10.1 When considering the planning balance and having regard to the adverse impacts and benefits outlined above, Officers have concluded that 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.

14. RECOMMENDATION

14.1 It is RECOMMENDED that the following decision be made:

Had the Local Planning Authority been in a position to determine the application, planning permission would have been 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)

Plan Description	Plan Ref	Plan Version
Location Plan	20-J3402-LP	N/A
Site Layout	20-J3402-01	N/A
Refuse Information	20-J3402-RSP	N/A
Highway Plan	66 2945-10-02	N/A
Topographical Survey	8428/01	N/A
Proposed Site Plan	TCTC-17756-PL-02	N/A
Tree Plan	TCTC-177756-PL-03	N/A
Visibility Splays	66 2945-10-01	J

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 would be permitted. The proposal is not one of those forms of development and therefore represents an encroachment to the countryside and unacceptable form of urbanisation of the rural setting of Ridgewell, to the detriment of local landscape character. Furthermore, the site is in an inaccessible location and therefore residents would be heavily reliant on private vehicles for access to services and facilities. On this basis, the proposal is contrary to the National Planning Policy Framework, and Policies SP1, SP3, SP7, LPP1, LPP42, LPP52 of the Adopted Braintree District Local Plan (2013-2033).

Reason 2

The proposed development, by reason of failing to provide adequate visibility splays, an internal access road up to adoptable standards, and by failing to provide a safe connection to the existing public footpath network, would represent an unacceptable degree of hazard to all users of the highway, particularly the cars and pedestrians seeking to access and egress the application site. The proposal would therefore be detrimental to highway safety contrary to Policies SP6, LPP47 and LPP52 of the Adopted Braintree District Local Plan (2013-2033), and Policies DM1 and DM9 of the Highway Authorities Development Management Policies (2011).

Reason 3

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, equipped play, and allotments.
- Ongoing maintenance for on-site public open space.

- A financial contribution for the NHS to ensure that the impacts of increased demand for services can be accounted for.
- A financial contribution towards secondary school transport.
- A financial contribution to improve, enhance and extend the facilities and services provided and to expand the reach of the mobile library and outreach services.
- Monitoring fees for each planning obligation.

These requirements would be secured through a S106 Agreement. At the time of issuing this decision a S106 Agreement has not been prepared or completed.

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 discussing these with the applicant either at the pre-application stage or during the life of the application. 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
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP31	Affordable Housing
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP46	Broadband
LPP47	Built and Historic Environment
LPP48	An Inclusive Environment
LPP50	Provision of Open Space, Sport and Recreation
LPP52	Layout and Design of Development
LPP53	Conservation Areas
LPP57	Heritage Assets and their Settings
LPP59	Archaeological Evaluation, Excavation and Recording
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP67	Landscape Character and Features
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems
LPP77	External Lighting
LPP78	Infrastructure Delivery and Impact Mitigation

Other Material Considerations

Affordable Housing Supplementary Planning Document (2006)
Essex County Council's Development Management Policies (2011)
Essex Design Guide (2005)
External Artificial Lighting Supplementary Document (2009)
Open Space Supplementary Planning Document (2009)
Parking Standards - Design and Good Practice (2009)

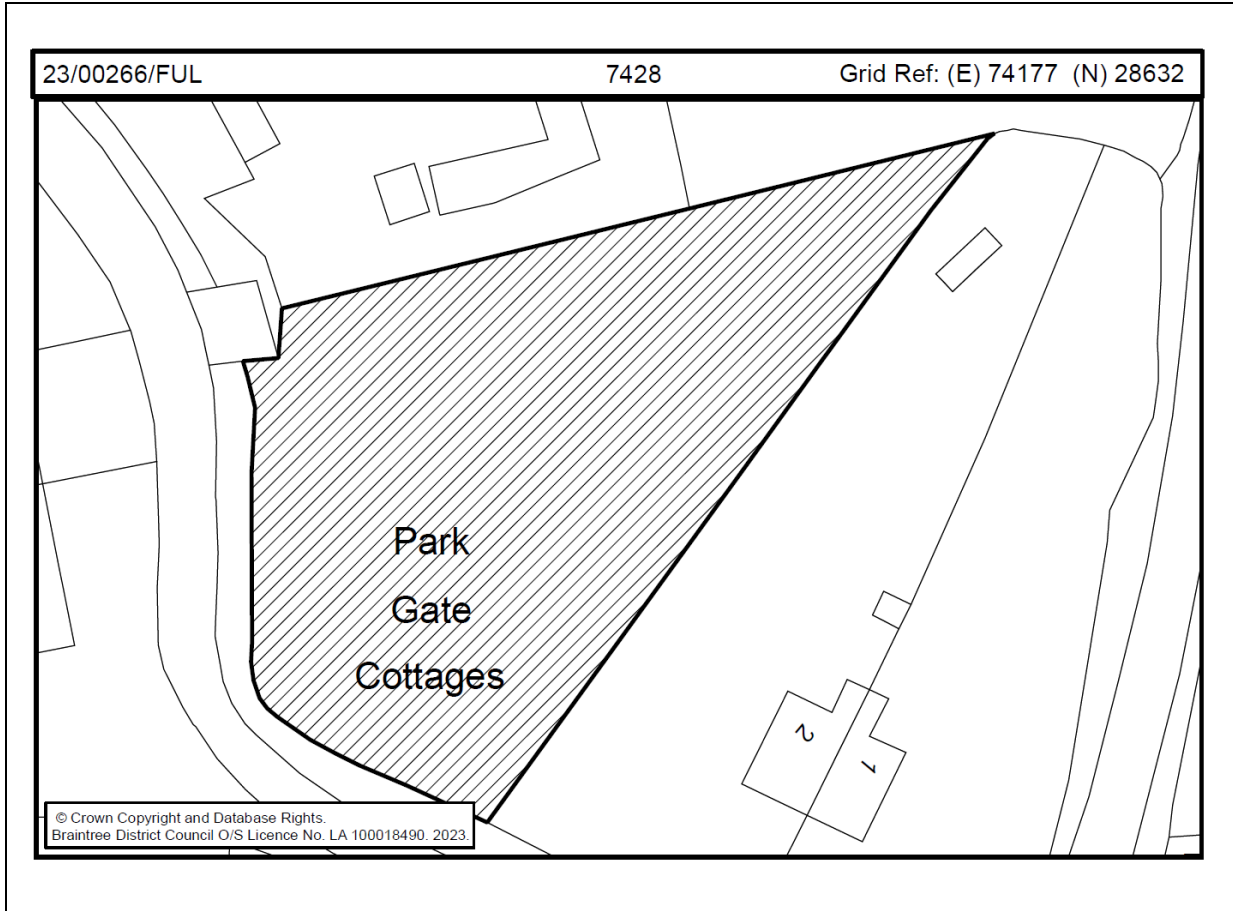
APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
23/00046/NONDET	Outline planning permission with all matters reserved apart from access for development of up to 24 dwellings including details of access into and within the site, parking arrangements, garages, open space, landscaping, drainage measures and all other associated works.	Pending Consideration	
12/01267/FUL	Erection of 4 no. affordable dwellings and associated external works	Granted with S106 Agreement	02.04.13
21/00929/OUT	Outline planning permission with all matters reserved apart from access for development of up to 24 dwellings including details of access into and within the site, parking arrangements, garages, open space, landscaping, drainage measures and all other associated works.	Refused	26.11.21

Report to: Planning Committee	
Planning Committee Date: 26th September 2023	
For: Decision	
Key Decision: No	Decision Planner Ref No: N/A
Application No:	23/00266/FUL
Description:	Erection of steel frame agricultural barn
Location:	Land Adjacent Park Gate Cottages, Beazley End, Wethersfield
Applicant:	Mr Sean McStravick, Lynton, Shalford Road, Panfield, Essex, CM7 5AS
Agent:	Mr George Courtauld, Courtauld & Co., Knight's Farm, Colne Engaine, Colchester, CO6 2JQ
Date Valid:	9th February 2023
Recommendation:	It is RECOMMENDED that the following decision be made: <ul style="list-style-type: none"> ▪ Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.
Options:	The Planning Committee can: <ol style="list-style-type: none"> a) Agree the Recommendation b) Vary the Recommendation c) Overtturn the Recommendation d) Defer consideration of the Application for a specified reason(s)
Appendices:	Appendix 1: Reason(s) for Refusal Submitted Plan(s) / Document(s)
	Appendix 2: Policy Considerations
	Appendix 3: Site History
Case Officer:	Jack Street For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2515, or by e-mail: jack.street@braintree.gov.uk

Application Site Location:



Purpose of the Report:	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.
Financial Implications:	<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>
Legal Implications:	<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 & 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>
Other Implications:	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.
Equality and Diversity Implications:	<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"> a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act; b) Advance equality of opportunity between people who share a protected characteristic and those who do not; c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting

	<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>Background Papers:</p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> ▪ Planning Application submission: <ul style="list-style-type: none"> ▪ Application Form ▪ All Plans and Supporting Documentation ▪ All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 23/00266/FUL.</p> <ul style="list-style-type: none"> ▪ Policy Documents: <ul style="list-style-type: none"> ▪ National Planning Policy Framework (NPPF) ▪ Braintree District Local Plan 2013-2033 ▪ Neighbourhood Plan (if applicable) ▪ Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application site is located within the countryside settlement of Beazley End. The site is described as 'Land Adjacent Park Gate Cottages' and is sited on Codham Little Park Drive, an access road formed westward from the highway, and comprises a triangular plot of undeveloped land. The site is occupied in its southern section by a tree with a Tree Preservation Order.
- 1.2 The application site is located beyond any town development boundaries or village envelopes as set out in the Braintree District Local Plan 2013-33. 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. No clear justification has been provided setting out the need for the building, or for which agricultural enterprise it would be related to, and why it is proposed in this location and not nearer to established agricultural activity. The application is contrary to Policy LPP1 of the Adopted Local Plan.
- 1.3 The proposed building would store hay, but it is not clear where the hay would be delivered from and for what purpose its storage is needed. The vehicular movements associated with the use are not known, which includes the movements of the proposed tractor which would be stored in the building. If the barn is to be used together with an agricultural holding elsewhere, vehicular movements between the two sites would materially increase traffic generation within this residential area and would not constitute sustainable transport as required by Policy LPP42 of the Adopted Local Plan and the National Planning Policy Framework.
- 1.4 There is no survey or assessment of the protected tree, nor trees and vegetation situated within reasonable proximity of the development. No protection measures to be taken during construction have been provided, wherein it is not clear the proposal complies with Policy LPP65 of the Adopted Local Plan.
- 1.5 With the expected use (including the intensity of use) not clear, the amount of vehicle movements are not known. It is therefore not possible to ascertain the impact on neighbouring properties. The introduction of a material increase of agricultural traffic within a countryside site in close proximity to residential neighbours is considered inappropriate in the absence of any clear explanation. The application appears contrary to Policy LPP70 of the Adopted Local Plan in this regard.
- 1.6 The site boundary does not extend to the public highway. As the site would need to traverse a potentially privately owned road and land, access is not assured by the submission documents. Should the Applicant need to rely on third-party land to access the site, the correct requisite notice would need to be served before an application. In either event, the application does not demonstrate acceptable access could be assured.

- 1.7 There is no objection to the proposed building on ecological and design matters, which would be subject to planning conditions if approved.
- 1.8 For the aforementioned reasons, the application is recommended for refusal.

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 Agent is related to a Member 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 is located within Beazley End, a countryside settlement falling within the Wethersfield parish and located north of Braintree & Bocking with the village of Shalford to its west and Gosfield to its east. The site is described as 'Land Adjacent Park Gate Cottages' and is sited on Codham Little Park Drive, an access road formed westward from the highway.

5.2 The site area is an angular plot of land situated north-eastward of Codham Little Park Drive. The aforementioned roadway bounds the south-west of the site and creates a curved perimeter of the site which slopes upward in this location given an elevation in the topography away from the highway. The site converges in its north/northeastern section to conclude with a triangular arrangement.

5.3 The Planning Statement suggests that the site has been used as a horse paddock and for dog agility training. At the time of the Case Officer's site visit, the plot was an undeveloped area of land.

5.4 The plans demonstrate an oak tree subject to a Tree Preservation Order (11/89 - T1 – "TPO") within the southern section of the application site adjoining the highway. The site is otherwise bound by fencing on the south of the site and vegetation, including trees, hedges, and shrubbery, on its northern and eastern perimeter.

5.5 The site does not contain any listed buildings, nor does the site form part of the setting of any nearby heritage assets. Furthermore, there are no other formal designations on the plot pertaining to biodiversity habitat, ecological matters, or other such protections aside from the TPO referenced above.

6. PROPOSAL

6.1 The application proposes the "erection of steel frame agricultural barn." The Planning Statement provided in support of the application set outs that the

barn would be used for storing hay and other agricultural items, including a small tractor.

- 6.2 The supporting planning documents indicate the barn would measure approximately 10 metres (“m”) in width, 10m in length and 4.70m in total height inclusive of a 2.80m eaves height. As per the description of development, the barn would be constructed with a steel farm and would be clad in black corrugated metal both on the walls and roof of the structure. Save for the barn door opening on the proposed front elevation, the building would be devoid of openings.
- 6.3 Though not explicitly referenced in the description of development, proposed plans (see Drawing No. ‘00300 Rev 01’) indicates an area of hard standing formed between the site access and the proposed structure. There is no indication of any new boundary treatments.
- 6.4 Officers noted during a site inspection that a close-boarded fence (approximately 2.0m in height) has been installed along the southern perimeter. The Applicant’s submission includes photographs which demonstrate a low-scale post-and-rail fence on this perimeter, wherein it is not clear at what point in time this boundary treatment was installed. There is no planning consent for this fence, which is not referenced in the submission documents nor the application form. The fence therefore does not form part of this proposal, but nonetheless is a material consideration and is discussed in subsequent sections of this report as such (see Section 11.7).

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 ECC Highways

- 7.2.1 The Highway Authority made no comments on this proposal.

8. PARISH / TOWN COUNCIL

8.1 Wethersfield Parish Council

- 8.1.1 The Parish Council raised no objection to this proposal.

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. 2no. objections were received in response. These are summarised below.

9.2 Summary of Objections Received.

- The site does not have the access shown in the submission documents.
- There does not appear to be a safe access to the land.
- No horses have been observed grazing in this area.
- The development would be visually unappealing.
- A high fence had been erected which has obscured the view of drivers approaching the bend.

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.

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 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 Local Planning Authority’s Development Management Plan (“DMP”), which consists of the Adopted Local Plan and any other adopted Supplementary Planning Documents and/or Guidance (“SPDs”) relevant to this application. 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 documents outline that the erection of the proposed barn would allow for the storage of hay, “agricultural items” (not specified) and a small tractor. The submitted plans do not, however, set out where the main hub of agricultural activity that this application relates to is located and how the provision of this barn would interact or otherwise support any agricultural activity either on site or in the vicinity.

- 10.5 It is noted in the submitted Planning Statement (section 02 – ‘Site + Context’ p.4) that the site has been used as a horse paddock and for dog agility training. For all intents and purposes, neither of these uses can be considered “agricultural” under the statutory definition set out in Section 336 of the Town and Country Planning Act 1990. This also adds further ambiguity as to why an agricultural barn, including use of a tractor, is required for a plot seemingly linked with previous equine use. Should this suggest the land is currently in equine use but would now support agricultural use, a requisite change of use of the land would be required.
- 10.6 Notwithstanding, with respects to the principle of erecting the building, however, the principle of development must be established where possible from the Council’s Development Management Plan consisting of the Adopted Local Plan and any other adopted Supplementary Planning Documents and/or Guidance. Though, as established, the use the building would support is a use appropriate to the countryside, this does not infer the principle of developing a building. Although Policy LPP7 provides guidance in terms of built development to support a rural economy in the countryside, it is only applicable to the conversion of existing, permanent buildings and is therefore not material to the assessment of a new building. In effect, then, there is no clear policy precedent for the development proposed set out in the Development Plan. With this noted, Officers can turn also 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 The application lacks information and evidence which sets out the need for the barn, which agricultural holding it would be related to, and how it would interact and support a holding. Why the barn is required in this location, as opposed to nearer to a hub of agricultural activity, is also not clear. The site appears to be removed from any agricultural businesses or enterprise under a common ownership, wherein the site would, at best, be representative of a “satellite” to an enterprise located elsewhere.
- 10.9 With a “satellite” site, it is expected that there would be some level of justification for this to allow for a consideration as to whether the enterprise this building represents a sustainable agricultural venture in terms of supporting a transition to a low-carbon future (see Sections 9 and 14 of the NPPF). Creating a satellite to enterprises elsewhere would generate greater numbers of vehicular movements which would be inconsistent with the NPPF and Policy LPP42 of the Adopted Local Plan. In such cases, these would be balanced against the justification and benefit of the business with relation to supporting a prosperous rural economy, although

at this time such details or evidence is lacking in the submission documents.

- 10.10 Therefore, in concluding on the principle of development, it is not clear why the activity requires a building of the size proposed and to what extent the proposed development would support a prosperous rural economy. Given the absence of a business plan, or a plan outlining the relationship between the site and an established agricultural holding, and whether or how it would relate to an existing agricultural enterprise, there is insufficient justification at this time for the building. There is not considered a principle of development at this time without a more robust evidence base and justification for consideration in accordance with national objectives to support a prosperous rural economy as set out in the NPPF.
- 10.11 The application is therefore not considered acceptable in principle.

11. SITE ASSESSMENT

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

- 11.1.1 Paragraph 84 of the NPPF outlines that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, including through permitting well-designed new buildings. Paragraph 126 outlines that the creation of high-quality, beautiful and sustainable buildings is fundamental to what the planning and development process should achieve. Paragraph 134, conversely, outlines that development that is not well designed should be refused.
- 11.1.2 Policy LPP52 of the Adopted Local Plan outlines design guidance that will guide this assessment. This policy inter alia seeks to secure high quality design that responds to local distinctiveness, and requires that the scale, layout, height and massing of buildings and overall elevation design should reflect or enhance the area's local distinctiveness and shall be in harmony with the character and appearance of the surrounding area, including their form, scale and impact on the skyline and the building line.
- 11.1.3 The site is bound on its northern and western perimeter by an established, albeit in some parts broken, vegetative belt. Positioned toward the rear of the plot, the building would set in against the backdrop of its natural perimeter features. Although its outwardly agricultural form, characterised by a utilitarian building form and appearance, is somewhat typical of an arable structure, the angular nature of the plot and the position of the building means its 10m x 10m length and width spans the entirety of the rearmost section of the site. The site, positioned on a curve in the road, is relatively sensitive to change as is evident by the prominent appearance of the south perimeter fencing. At 4.70m in total height, the building would alter the current character of the locality.

- 11.1.4 This is not to say, however, that the introduction of a building within the site would be fundamentally objectionable. Officers note the presence of stable buildings in the vicinity, and the local street scene is itself characterised by a mixture of equine, agricultural, and residential buildings as is conventional within countryside settlements. The introduction of a barn with the appearance of an agricultural barn, utilising black finished cladding, is compatible with the local street scene identity. It is not considered that the structure would be, on its own merits, a design contrary to relevant criteria set out within the Adopted Local Plan.
- 11.1.5 It is, however, a separate consideration as to whether this size is justified and it is not considered evidence to determine this has been provided (see 'Principle of Development' section). Although the building is of an appropriate form and appearance, its scale and massing relative to the plot and onsite activity is not considered commensurate. The building could be considered justifiable if the evidence for its use (by way of a business plan setting out how and why it is needed, and how exactly it would support a prosperous rural economy) is satisfied. However, this has not been provided wherein such justification is not present for Officers to take into account. Therefore, though its appearance is agreeable, the lack of principle for the development and justification for its need (including to the scale proposed), means the development could not be supported.
- 11.1.6 It is noted, in addition, that the site would provide for the storage of hay, "agricultural items" and a small tractor as set out in the Planning Statement. The site is described as a paddock and it is not clear where the hay to be stored would be brought from. Drawing no. '10200 Rev 00' indicates a mixture of large and small hay bales, but includes an inset illustrative image which demonstrates a typical open-sided hay store. It is noted that hay is efficiently stored in open-sided structures and that, if stored internally, adequate ventilation would be required. This further brings into question the justification for the building as proposed.
- 11.1.7 The future need for external lighting is a reasonable prospect, such as to ensure the safety of building 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 countryside location, it is not considered that uncontrolled external lighting would be agreed. A condition would restrict external lighting wherein any future lighting would require permission if the application had been approved.

11.2 Ecology

- 11.2.1 The Council's Ecology Officer have considered the submitted scheme and noted the conditions on site. It is noted that no ecological assessment has been submitted to support the application.
- 11.2.2 It has been noted by the aforementioned Ecology Officer that, given the scope and scale of the proposed works, it is considered unlikely that the

site has any suitable habitat to support protected species that would be impacted by the development. The plans submitted indicate that, on the balance of probabilities, there would be no detrimental impact to designated sites, protected species, or priority species and habitats.

- 11.2.3 Policy LPP66 of the Adopted Local Plan sets out 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. Policy LPP64 of the Adopted Local Plan outlines that, in all development proposals, management, mitigation and compensation measures will be secured through planning conditions where necessary.
- 11.2.4 The Council's Ecology Officer has 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.
- 11.2.5 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 national legislation and planning policy guidance.

11.3 Impact on Landscape Features, including Trees

- 11.3.1 As noted in preceding sections of this report, a protected oak tree with a TPO (11/89 - T1) is located within the southern sections of the site. Although the tree is labelled and recognised on Drawing No. '00300 Rev 01' as a protected tree, no assessment of the tree, its significance, nor the impact the development may or may not have on the wellbeing of this specimen is provided. The planning statement provides no assessment or acknowledgement of the tree.
- 11.3.2 Officers note the presence also of trees to the north and north-east of the development, as well as natural features (i.e. hedges and shrubbery) which typify the perimeter of the site.
- 11.3.3 There is no indication in the application documents that the trees would be felled, pruned, or otherwise interfered with to facilitate the construction of the proposed building. However, there is no assessment at all of the tree. Policy LPP65 of the Adopted Local Plan outlines that, where trees are to be retained on new development sites, there must be a suitable distance provided between the established tree and any new development to allow for its continued wellbeing and ensure it is less vulnerable to pressures from adjacent properties for its removal. Policy LPP65 also requires that developers reflect best practice guidance set out in BS5837:2012 (as

amended). The standard recommends that trees of higher quality are a material consideration in the development process.

- 11.3.4 The proposed building would be approximately 32.40m from its closest corner to the trunk of the protected tree to the south-west. The area of hard standing would be some 25.0m from the tree. The building would be 7.50m from a tree to the north of the site (beyond the Applicant's control) and 14.20m from a tree in the northern section of the site (north-by-northeast of the proposed building).
- 11.3.5 There is no assessment of these trees, their significance, nor any measures to be put into place to ensure appropriate protection of these trees. Although the distance between the building and the TPO tree could be considered "suitable" as set out in Policy LPP65 of the Adopted Local Plan, Officers cannot conclude this with conviction. Furthermore, the impacts of the development on trees to the north and east of the site cannot be ascertained owing to the lack of arboricultural information (such as a Tree Survey and Tree Protection Plan, or equivalent). Insufficient information in this regard impacts the ability for Officers to conclude beyond a reasonable doubt that there would be no impact on trees, including one subject to a TPO, wherein it cannot be confirmed the scheme complies with Policy LPP65 and suitable protection measures are not assured by the application documents.

11.4 Impact upon Neighbouring Residential Amenity

- 11.4.1 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. Policy LPP70 of the Adopted Local Plan also requires Officers to consider potential impacts arising from the development, including by virtue of noise and odour.
- 11.4.2 It is not considered that the proposed building, by virtue of its position in relation to neighbouring residential properties as well as its height and bulk, it is not considered that overshadowing would affect neighbouring amenity. Although the topography of the locality (which elevates away from the highway) is noted, the building is northward of its adjoining residential property wherein unacceptable levels of overshadowing would not result. By virtue of its distance from the neighbouring dwelling, an unacceptable impact on light would also not likely occur.
- 11.4.3 The building is not likely to lead to a material increase in rates of overlooking, nor an unacceptable impact on privacy. The site could already be subject to its owner being able to view out from the plot, and the introduction of a building would not materially increase such an outlook that would presently be possible. The lack of window openings in the structure further ensures this.

- 11.4.4 It is noted, however, that the site would provide for the storage of hay, “agricultural items” and a small tractor as set out in the Planning Statement. The site is described as a paddock and it is not clear where the hay to be stored would be brought from; the site does not appear to an adequate size to grow and cultivate the quantity of hay bales illustrated on Drawing No. ‘10200 Rev 00’. It is possible, then, that hay would be grown elsewhere and the “small tractor” referenced would be used elsewhere. This would result in traffic movements and associated noise and disturbance adjoining residential neighbours. The extent of the use, including how and when hay would be brought to the site, and how many vehicular movements would be required from the building to the associated agricultural holding it would seek to support, is not known. Therefore, the extent of impacts in this regard cannot be conclusively determined.
- 11.4.5 Although agricultural traffic in the countryside is, naturally, not an uncommon phenomenon, new farm buildings should be positioned in locations close to an established hub of agricultural activity where they would not introduce new impacts to residential neighbours. Such mitigation is not suggested here; the development would introduce new noise and disturbance sources with no real justification. It is not clear why the building must be positioned on this plot and could not be positioned close to a source of agricultural activity as opposed to generating traffic and associated distance.
- 11.4.6 As such, the scheme would result in impacts contrary to Policy LPP70 of the Adopted Local Plan. The lack of justification does little to offset this concern.

11.5 Highway Considerations

- 11.5.1 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) (“the Parking Standards”) states that prior to development, the developer must demonstrate that adequate parking will be provided.
- 11.5.2 There is no established parking standard for agricultural use within the Parking Standards. In such cases, the development will usually be considered on its own merit commensurate to the level of activity and use proposed. However, such information is not clear. It is known the building is envisaged for agricultural storage purposes, but the justification of why the storage is proposed at this site is not known. The exact vehicular requirements of the site are also not known. Yet the provision of hard standing and the size of the site is suggestive that the site would be able to accommodate ample parking. Uncontrolled parking, however, would be an unattractive feature that would alter the public realm and, should the application have been supported by adequate justification, a commensurate

- parking plan could have been negotiated and/or provided by planning condition.
- 11.5.3 Policy LPP42 of the Adopted Local Plan outlines that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks.
- 11.5.4 For the reasons outlined in preceding sections, it is not clear that the hay that would be stored in the proposed building would derive from the application site. It is also not clear where any associated agricultural holding is located and how this proposed building would interact with an enterprise elsewhere. It is possible, then, that vehicular movements to and from the site in this countryside location would be necessary.
- 11.5.5 Officers would need to be clear what levels of traffic would be envisaged, by which types of vehicles, and how this would relate to the existing residential use adjoining the site. This would need to form part of the justification for the need and use of the building, which at this time is not of a sufficient detail. Without clear justification for this, as well as why the building cannot be located nearer to an established site of agricultural activity, the development would not meet the objectives of Policy LPP42, nor the principles of sustainable development set out in the NPPF.
- 11.5.6 Policy LPP52 requires that the access and traffic generated by the development can be accommodated without adverse impact on the local road network. There is a fundamental principle in planning that the site should be served by a suitable access.
- 11.5.7 During the course of this application, objections received from members of the public have highlighted that the Applicant does not have assured access to the public highway. Indeed, Officers have consulted with Essex Highway mapping services which demonstrate that, whilst the highway to the east of the site is within the confirmed extent of ownership and maintenance by the Highway Authority, Codham Little Park Drive is not within the confirmed extent. This could suggest that the road is under private ownership, as neighbouring comments suggest.
- 11.5.8 It is evident that the site boundary only extends to Codham Little Park Drive and does not connect to the public highway. Therefore, access to the highway (and therefore the site) would rely on potentially traversing a private road. In such cases, an application would need to encompass the site area and a segment of the road connecting to the public highway and serve the appropriate notice on the relevant landowners.
- 11.5.9 The application and the associated red line has been submitted with notice served by way of Certificate A. This implies that the site area shown in the red line is within the Applicant's sole ownership and control. Whilst Officers have no evidence to discount this, it is evident that the red line does not demonstrate access that links to a public highway. If the allegation (the

word “allegation” is used here simply because Officers do not have evidence at this time to authenticate the statement made in the letter of objection received from the occupant of Codham Little Park Farm), set out in the objection received on 23.02.2023 from the occupant of Codham Little Park Farm, then to encompass the area of land from the road up to the highway would mean that requisite notice would be served on the owner of the private road *before* an application is submitted. The correct certificate would need to then be signed on the application form confirming notice was served.

- 11.5.10 Part 3, Article 13 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) (“DMPO”) sets out that an applicant for planning permission must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of the land to which the application relates by serving the notice on every such person whose name and address is known to the applicant (or by taking all reasonable steps to ascertain names and addresses if not known, or publish a such notice within a newspaper if unable to ascertain the owner). The date prescribed for the purposes of section 65(2) of the Town and Country Planning Act 1990 (notice etc. of applications for planning permission) and the “prescribed date” for the purposes of the DMPO, is the day 21 days before the date of the application. Such notice therefore needs to be served *before* an application as opposed to during.
- 11.5.11 As such, the site does not demonstrate access to the public highway and thus access is not assured by the submitted plans. To envelop the private road in the red line would necessitate the correct notice being served and this cannot be done in the life of a live application. As such, it is not clear that the site is served by an adequate access to the highway and cannot be supported on these grounds.
- 11.5.12 Essex Highways were consulted on this application but raised no comment.

11.6 Means of Enclosure – South Perimeter Fence

- 11.6.1 The submission documents demonstrate a low-scale post-and-rail fence along the southern perimeter on the site, although Officers have observed that a close-boarded, near-to 2m high fence has been installed. It is not clear that this fencing is authorised.
- 11.6.2 Although means of enclosure are permitted by Schedule 2, Part 2, Class A of The Town and Country Planning (General Permitted Development Order) (England) 2015 as amended (“GPDO”), any means of enclosure adjacent to a highway may not exceed 1m in height unless a previous means of enclosure higher than 1m was already authorised in this position wherein the new means of enclosure must not exceed this height.
- 11.6.3 There is no definition of “highway” within Schedule 2, Part 2 of the GPDO. A definition of "highway" given in Part 1 includes an unadopted street or

private way, although this applies only to Part 1 as opposed to Part 2. Turning then to how the development is termed in Part 2, paragraph A states that development which is “adjacent to a highway used by vehicular traffic” should not exceed 1m. There is no clear distinction here between ‘public’ and ‘private’ in the use of the term “highway.” Indeed, it can be agreed that Codham Little Park Drive *is* a highway used by vehicular traffic to serve the dwellings sited along it and with consideration given to the lack of a formalised footpath along this road (which is mainly conducive to car travel).

- 11.6.4 Therefore, it is a matter of fact and degree that the fence is sited adjacent to a highway and exceeds the 1m restriction. As such, the development would appear unauthorised and is subject to separate investigation by the Council’s Planning Enforcement department. However, it is noted that the fence does not feature in the description of development or the application documents wherein it is effectively a separate matter. What this means, however, is that the fence cannot be used to argue that it mitigates the appearance of the barn should it transpire the fence is itself unauthorised.

12. CONCLUSION

- 12.1 The scheme lacks sufficient details for the Local Planning Authority to be able to definitively determine the application. There is no clear justification for the proposed building, its envisaged use and activity, and how it would support an enterprise off-site. It is not clear why the building cannot be provided closer to an established hub of agricultural activity it is understood to be associated with and why, instead, it should be located close to residential properties. Associated design, tree, sustainability neighbouring impacts are therefore not justified, and the level of information does not address the potential conflicts with Policies LPP42, LPP52, LPP65 and LPP70 of the Adopted Local Plan as identified in this report. The application is therefore contrary to Policy LPP1 of the Adopted Local Plan, by virtue of introducing development with no policy precedent within the countryside.

- 12.2 In addition, it is evident that the development would not be served by a clear access to the highway. The red line boundary for the site would need to envelop an area of private road between the site access and the highway, and requisite notice would need to be served on the relevant owner before the submission of an application. In any such case, this cannot be addressed during the life of this application wherein the access arrangements are not sufficient for approval. For the reasons set out above, the application is 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)

Plan Description	Plan Ref	Plan Version
Proposed Floor Plan	10200	00
Location Plan	00100 00	01
Block Plan	00200 00	01
Proposed Block Plan	00300	00
Proposed Plans	10000	00
Proposed Plans	10100	00
Other	80000	00

Reason(s) for Refusal

Reason 1

The proposed development lacks sufficient evidence setting out the need for the building, nor whether it supports an existing rural enterprise and why development and growth of any existing unit could only be supported by development on this plot. Therefore, there is insufficient justification for the building and how it intends to support a prosperous rural economy. Furthermore, owing to the lack of justification, the size of the building, which is not commensurate to the plot or the level of activity suggested, is also unjustified as it is not evident why a building of this size is required to support the activity on site without clear justification. 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

There is insufficient evidence detailing expected vehicular movements to, from and within the site for the Local Planning Authority to positively assess impacts to the existing residential use the access would bypass. The capability for vehicular and pedestrian movements associated with the existing residential use and the movement of additional traffic generated by the site is not clear, particularly given the layout of the road relative to the access and the lack of evidence to demonstrate how potential hazards could be mitigated. This would not be conducive to pedestrian and vehicular safety within the plot, contrary to Policy LPP52 of the Braintree District Local Plan 2013 - 2033.

In addition, vehicular movements of traffic potentially generated by the proposed building and activity on site would bypass what is shown as a separate planning unit occupied by an existing residential property. Vehicular movements would give rise to additional levels of disturbance in terms of noise and fumes, contrary to Policies SP3, LPP52 and LPP70 of the Braintree District Local Plan 2013 - 2033 which seeks to protect neighbouring amenity in this regard.

Reason 3

The application does not provide sufficient assurance that access to the public highway can be provided given that the indicated site area and access extends to a section of Park Lane which is privately owned and does not connect to the public highway network. The application is not supported by any evidence to indicate that the Applicant has consent to use this section of private road and, given the site area does not extend to the public highway, there are no sufficient assurances that this access can be relied on. This is contrary to guidance set out in the National Planning Practice Guidance.

Reason 4

Insufficient evidence is submitted to ensure safeguards for the protected tree (TPO 11/89 - T1) on the southern perimeter of the site, as well as the trees and natural features which typify the northern and north-eastern perimeter of the site. The application is not supported by a Tree Survey or Tree Protection Plan (or equivalent) wherein it cannot be confirmed beyond a reasonable doubt that the application complies with Policy LPP65 of the Braintree District Local Plan 2013 - 2033 which requires assurances of best practice measures and an assurance that a trees will not be harmed by development, particularly those subject to a Tree Preservation Order.

Informative(s)

Informative 1

It is noted that a close-boarded fence has been erected along the southern perimeter of the site. This means of enclosure does not form part of this application and is subject to separate investigation by Council's Planning Enforcement team.

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
LPP7	Rural Enterprise
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP52	Layout and Design of Development
LPP63	Natural Environment and Green Infrastructure
LPP65	Tree Protection
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

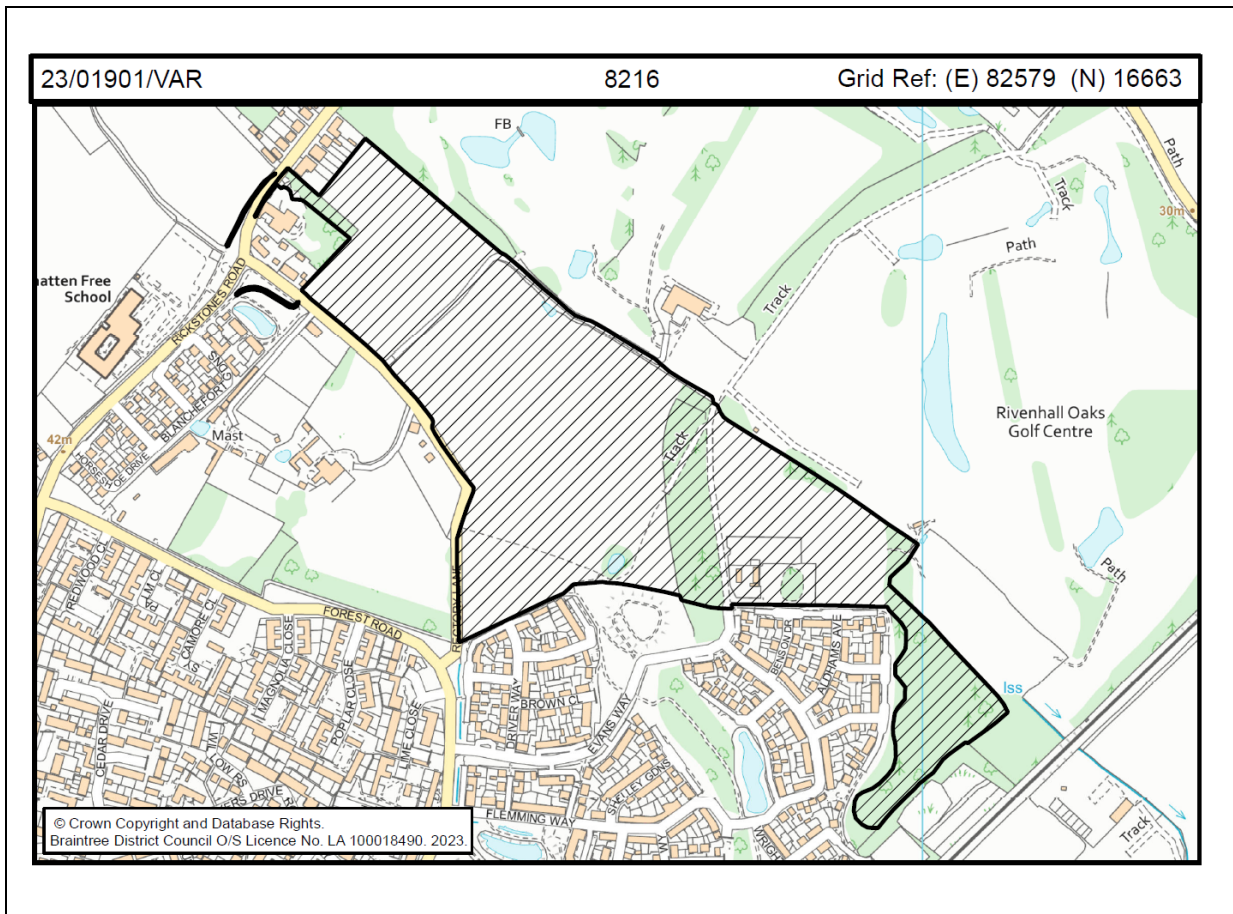
APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
23/01861/FUL	Retention of boundary fencing	Invalid on Receipt	

Report to: Planning Committee	
Planning Committee Date: 26th September 2023	
For: Decision	
Key Decision: No	Decision Planner Ref No: N/A
Application No:	23/01901/VAR
Description:	Variation of Condition 27 (Relocation of 2 No. Pine Trees) of approved application 20/02060/OUT (allowed at appeal) granted 05.01.2023 (See Paragraph 6.1 for full description of the proposal).
Location:	Phase 4 Land North East Of Rectory Lane, Rivenhall
Applicant:	Mrs Sarah Cornwell, Bellway Homes Limited, C/o Agent
Agent:	Mr Olivier Spencer, Andrew Martin - Planning Limited, Town Mill, Mill Lane, Stebbing, Dunmow, CM6 3SN
Date Valid:	31st July 2023
Recommendation:	It is RECOMMENDED that the following decision be made: <ul style="list-style-type: none"> ▪ 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.
Options:	The Planning Committee can: <ol style="list-style-type: none"> a) Agree the Recommendation b) Vary the Recommendation c) Overtturn the Recommendation d) Defer consideration of the Application for a specified reason(s)
Appendices:	Appendix 1: Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	Appendix 2: Policy Considerations
	Appendix 3: Site History
Case Officer:	Neil Jones For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2523, or by e-mail: neil.jones@braintree.gov.uk

Application Site Location:



Purpose of the Report:	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.
Financial Implications:	<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>
Legal Implications:	<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 & 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>
Other Implications:	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.
Equality and Diversity Implications:	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>Background Papers:</p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> ▪ Planning Application submission: <ul style="list-style-type: none"> ▪ Application Form ▪ All Plans and Supporting Documentation ▪ All Consultation Responses and Representations <p>The application submission can be viewed online via the Council's Public Access website: www.braintree.gov.uk/pa by entering the Application Number: 23/01901/VAR.</p> <ul style="list-style-type: none"> ▪ Policy Documents: <ul style="list-style-type: none"> ▪ National Planning Policy Framework (NPPF) ▪ Braintree District Local Plan 2013-2033 ▪ Neighbourhood Plan (if applicable) ▪ Supplementary Planning Documents (SPD's) (if applicable) <p>The National Planning Policy Framework can be viewed on the GOV.UK website: www.gov.uk/.</p> <p>The other abovementioned policy documents can be viewed on the Council's website: www.braintree.gov.uk.</p>

1. EXECUTIVE SUMMARY

- 1.1 The Planning Practice Guidance states that in deciding an application under Section 73 of the Town and Country Planning Act 1990, the Local Planning Authority must only consider the condition/s that are the subject of the application – it is not a complete re-consideration of the application. It also states that the original planning permission will continue to exist whatever the outcome of the application that is submitted under Section 73.
- 1.2 This Section 73 application proposes to amend Condition 27 (relocation of trees) pursuant to the outline planning permission granted by the Planning Inspector (Appeal Reference APP/Z1510/W/22/3305099 / BDC Application Reference 20/02060/OUT). Currently the condition requires that two Pine trees standing within the application site are relocated to a new position within the site to allow their retention within the public open space that is provided as part of this application. The Applicant proposes that rather than spending significant sums to attempt to relocate the two trees a more practical form of mitigation would be to provide four new nursery stock trees of similar height and size which can be planted on-site to mitigate for the loss of the two Category B Pine trees. These four new trees would be in addition to all the other new trees that will be provided as part of the development.
- 1.3 In considering the merits of the application Officers consider that the proposal to provide four new trees would form an acceptable alternative form of mitigation to the loss of the two Pine trees. Relocating trees of this size is costly and even when specialist contractors are used there is no guarantee that the transplanted trees would survive and prosper after relocation.
- 1.4 All the other planning conditions that formed part of the outline planning permission would remain if this application is approved. As a new planning permission will be issued a Deed of Variation would be required to the existing Section 106 Agreement to ensure that the obligations secured in that agreement bind on this new planning permission.

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, as the condition which is the subject of this application was added to address a specific concern raised by the Planning Committee when the Outline planning application was originally considered.

3. POLICY CONSIDERATIONS

- See Appendix 2

4. SITE HISTORY

- See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 When the application was originally reported to the Planning Committee for determination the Officer Report contained the following site description. Where there has been a material change since the original Committee Report Officers have updated the report [*in italics*].

5.2 The site is located north east of Witham, within the Parish of Rivenhall, and comprises 17.1 hectares of agricultural land, of which a small portion is currently in temporary use as a construction site compound [*this compound is now removed*]. 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. Phase 1 & 2 were granted permission in 2016 and which is still partially under construction to the south [*the construction of Phase 1 & 2 is now completed*]. These new dwellings are accessed from an internal spine road, Evans Way, via Forest Road. To the north-east lies the Rivenhall Oaks Golf Course. To the north, the site abuts the rear gardens of a ribbon of properties on Rickstones Road, which are part of the hamlet known as Rickstones End.

5.3 Travelling west along Rickstones Road in the direction of Witham, there is the Bellway (Phase 3) development, known as the Bluebells, under construction for 58 dwellings [*the construction of this development is now completed*]. 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.

- 5.4 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 east of the existing access road to the Golf Course. In the south, the site contains an isolated triangle of woodland, with an existing area dedicated for use as allotments beyond. To the west, on the opposite side of Rectory Lane, lies the Grade II listed Old Rectory. As part of the consultation on the main modifications on the Section 2 Local Plan, the development boundary has been redrawn around the Bluebells development on the Witham North allocation map [*this amendment to the Settlement Boundary now forms part of the adopted Local Plan*]. The remainder of the town development boundary runs along Forest Road.
- 5.5 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 meeting PROW 105_59 at the juncture with the earlier phase of residential development in the south and then travels northeast towards the Golf Course. These footpaths form part of the John Ray Walk; a linear recreational route connecting Braintree with Witham. Rectory Lane is also designated as a 'Protected Lane' as identified under Policy RLP87 of the Adopted Local Plan [*now Policy LPP 69*]. Essex County Council have also designated Rectory Lane as a Quiet Lane. Highway Authorities are able to 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.
- 5.6 The site is located in a Mineral Safeguarding Zone as designated within the Essex Minerals & Waste Local Plan. The site also lies within the Habitats Regulation Assessment Zone of Influence as identified in the Essex Coast RAMS Supplementary Planning Document (2020). A high-pressure gas main crosses within the site, running north to south, parallel and adjacent to Rectory Lane.

6. PROPOSAL

- 6.1 This Section 73 application proposes to amend Condition 27 (relocation of trees) pursuant to Application Reference 20/02060/OUT, which was granted planning permission following a Planning Appeal Reference APP/Z1510/W/22/3305099. The full description of the proposal is as follows:

'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 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 & 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.'

6.2 No other changes are sought to the Outline planning permission.

7. SUMMARY OF CONSULTATION RESPONSES

7.1 BDC Landscape Services

- 7.1.1 Due to the additional growth put on by the 2no. Pine trees (T93, T94) including shallow root growth, it is now no longer feasible to carry out translocation of the trees using a 'tree-spade' method. The alternative method would require 'airspading' of the roots in order to over a period of time prune the roots down to a rootball size to aid translocation. The Applicant has been advised whilst this is possible, the time and the costs involved coupled with the risk of the trees not surviving is too high risk as the outcome is not certain, this new information has resulted in an alternative proposal having been made by the Applicant to instead.
- 7.1.2 The Applicant's arboricultural consultant has looked at what could be supplied and planted from a nursery for a similar cost providing a very similar amenity value. They have established that 4x trees with planting and a 5-year aftercare package would be achievable with a higher chance of success of them establishing with the right aftercare. The trees would be guyed below ground to provide a natural presence in the landscape.
- 7.1.3 Landscape Services in principal supports the Variation of Condition 27. The proposal to replant with 4 trees with a 5 year management plan gives a more certain outcome that the trees are likely to establish and thrive in their new setting and ultimately will ensure a longer safe useful life expectancy than transplanting existing trees. The end result is a 100% biodiversity net gain in regards to the scope of this proposal, providing the species are of similar size. The proposal also further suggests increasing biodiversity by recommending 2 of the trees are deciduous rather than all being coniferous thus increasing species variety on the site.

8. PARISH / TOWN COUNCIL

8.1 Rivenhall Parish Council

8.1.1 Rivenhall Parish Council has the following comment to make relative to this planning application.

8.1.2 The original plans show housing and roads covering the whole area where the pine trees stand, it was already suggested as part of the tree management document that all of the trees be removed except the two pine trees mentioned in the current application. In 2020 these two trees were suitable for transplanting, but now, due to difficulties and high cost, this application proposes that instead of transplanting the pine trees, 4 new trees are planted elsewhere. These should be additional trees and not part of the outline plan.

8.1.3 Many of the new trees planted in Phases 1 and 2 have already failed due to poor management, therefore, if it is approved that these 2 healthy trees are removed, the approval should include a condition that the replacements should receive far better monitoring and care than those on the previous Phases.

8.2 Witham Town Council

8.2.1 No response received to consultation.

9. REPRESENTATIONS

9.1 The Council has received three written representations regarding the application.

9.2 Two letters object to the principle of development and request that planning permission should not be granted to allow the development of housing. Reasons given for objecting include how busy the area is getting; not being able to register with an NHS dentist; scarcity of school places; loss of green open space.

9.3 A letter from the Witham tree group raise a concern about the failure of new trees planted in other new developments and questioning what level of aftercare these new trees will get to ensure that they too do not fail.

10. PRINCIPLE OF DEVELOPMENT

10.1 National Planning Policy Framework (NPPF)

10.1.1 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).

- 10.1.2 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.
- 10.1.3 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.
- 10.1.4 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.
- 10.1.5 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).

10.2 5 Year Housing Land Supply

- 10.2.1 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.
- 10.2.2 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.

- 10.2.3 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%.
- 10.2.4 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.
- 10.2.5 Nevertheless, as the Council cannot 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.
- 10.3 The Development Plan & The Principle of Development
- 10.3.1 The Council's statutory Development Plan consists of the Braintree District Local Plan (2013 – 2033).
- 10.3.2 Officers recommended approval of the outline planning application, but Members voted to refuse the application at the Planning Committee held on 22nd February 2022. One composite reason for refusal was given identifying seven harms which cumulatively were judged to outweigh the benefits of the scheme. One of the harms listed by Members was the loss of trees and hedgerows both on-site and off-site.
- 10.3.3 The Applicant lodged an appeal to the Secretary of State and a Public Inquiry was scheduled. After the appeal was lodged the Council's Housing Land Supply position changed and the Council sought Counsel advice on the subsequent strength of the Council's case and ability to defend the refusal. Following receipt of Counsel advice, and in consultation with the Committee Members who moved and seconded refusal, a decision was taken to not defend the appeal. The Planning Inspector appointed by the Secretary of State proceeded to hold a public inquiry in December 2022 and they fully considered the proposed development. This consideration included the issues referred to in the Decision Notice and the objections raised by interested parties. The Planning Inspector issued their decision letter in January 2023 and granted outline planning permission for the development.
- 10.3.4 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).

- 10.3.5 The appeal decision firmly establishes the principle of development for this site under the original outline planning permission for up-to 230 dwellings.
- 10.3.6 This Section 73 application proposes to amend Condition 27 of the outline planning permission. This is because having further investigated the relocation of the two trees, and having regard to the tree growth that has occurred in the two years since the trees were last assessed, the Applicant now believes that it would be more beneficial to plant four new nursery stock trees of similar height and size. The cost of providing the four trees, and the attendant five-year aftercare package, would be similar to the cost of preparing the two existing trees for potential re-location. The Applicant's arboriculturist states that they consider that it is likely that the four new trees are more likely to survive and grow successfully than the two re-located trees.
- 10.3.7 The Planning Practice Guidance states that in deciding an application under Section 73 of the Town and Country Planning Act 1990, the local planning authority must only consider the condition/s that are the subject of the application – it is not a complete re-consideration of the application. It also states that the original planning permission will continue to exist whatever the outcome of the application under Section 73.
- 10.3.8 Members therefore cannot reconsider the principle of development and need to just consider the proposed changes to Condition 27 and determine whether the change is acceptable or not.

11. ASSESSMENT

- 11.1 The original outline planning application included a Tree Constraints Survey. In October 2021 an additional document - the Preliminary Tree Removal Plan - was provided by the Applicant which contained further detail about the anticipated tree works and removals based on an illustrative layout of the proposed development.
- 11.2 The outline planning application was first considered by the Planning Committee at the meeting on 26th October 2021. Members voted to defer the application for Officers to consider further proposed off-site cycle improvements. Aside the issue of off-site cycling facilities, the Applicant noted the concerns expressed by Members at the October Planning Committee about the preliminary tree removal list.
- 11.3 The Applicant produced a further document - the Proposed Tree Management report - in January 2022. This report was produced following updated survey work and sets out the number and quality of any trees that are likely to be removed along with annotated photographs to evidence some of the assertions that the report author was making.
- 11.4 The tree removal list included a loose scattered group of 25 trees on the east of the site, on land that previously formed part of the adjoining Rivenhall Oaks golf course. Most of this group of trees were classified by

the Applicants arboriculturist as being Category C trees as the trees were observed to be in poor condition. The group did however include two Category B Pinus Sylvestris (Scots Pine) identified in the report as T93 & T94. In October 2020 the trees were recorded in the Tree Report as being approximately 7-8 metres high.

- 11.5 Acknowledging Members concerns about trees the Applicant proposed to relocate the two Category B pine trees within the development site and, when the application was reported to the Planning Committee the second time in February 2022, Officers recommend that the relocation of the two trees should be covered by planning condition. Consideration was given to replanting nine Category C trees in this group, but the Applicant felt that there would be more benefit in replacing these trees on a 2 for 1 basis, with better quality nursery stock, rather than attempting to transplant the nine trees.
- 11.6 Through the appeal process the Applicant and the Council agreed a set of planning conditions which were recommended to the Planning Inspector. This list of conditions included a condition to transplant the two pine trees. The Planning Inspector accepted the recommended planning condition.
- 11.7 In advance of submitting an application for approval of the Reserved Matters the Applicant engaged a specialist contractor to investigate the relocation of the trees. Having obtained their advice on the likely cost of moving the trees, including the extensive work to prepare the trees and roots for transportation, the Applicant is concerned that a considerable sum of money could be expended on attempting to transplant the trees. Whilst a specialist contractor would be engaged to undertake the work there is no guarantee that the relocation would be successful.
- 11.8 The Applicant has investigated how the money which could be spent on trying to transplant the trees could be better utilised to mitigate the loss. It is proposed that four new nursery stock trees of similar height and size could be planted on-site, along with a five-year aftercare package, for a similar cost to the Stage 1 works necessary to prepare the existing trees for potential re-location. The Applicant considers this to be preferable as the four new trees would be more likely to survive and grow successfully than the two re-located trees.
- 11.9 The Council's Tree and Landscape Officer has reviewed the submitted and commented that having reviewed the submitted information they support in principle the Variation of Condition 27. The proposal to replant with 4 trees with a 5-year management plan gives a more certain outcome that the trees are likely to establish and thrive in their new setting and ultimately will ensure a longer safe useful life expectancy than transplanting existing trees. The end result is a 100% biodiversity net gain in regard to the scope of this proposal, providing the species are of similar size. The proposal also further suggests increasing biodiversity by recommending 2 of the trees are deciduous rather than all being coniferous thus increasing species variety on the site.

- 11.10 Policy LPP65 of the Adopted Local Plan expects trees which make a significant positive contribution to the character and appearance of their surroundings to be retained. New landscape proposals for tree planting on development sites should reflect the recommendations set out in the relevant British Standards.
- 11.11 One of the key benefits of removing and re-locating trees T93 and T94 was to ensure that these substantial trees were retained as they are of a size and quality that can have a strong and positive impact on the character and appearance of the area. The Applicant proposes that whilst these two substantial trees would be lost they would be replaced by four new trees which would be of a similar height and appearance. Officers consider the proposed mitigation to be appropriate and recommend that Condition No.27 is amended, as proposed.
- 11.12 Officers note the concerns raised by Rivenhall Parish Council and the Witham Tree Group about the number of trees that are dying within new developments. Their concerns are understood but they are considered to have a limited bearing on the determination of this Section 73 application. Whether the existing trees are transplanted, or new nursery stock planted both will need watering during the first five years to ensure that can survive and thrive. The Applicant has committed to a 5-year package of watering and care following planting of the new trees. In the event that the new trees die during the first 5 years the developer would be responsible for providing replacement trees.
- 11.13 Officers are aware of the issues with some of the trees with Phase 1 & 2 of the adjoining Rivenhall Oaks development and this matter is being addressed through the Council's Planning Enforcement team.

12. PLANNING OBLIGATIONS

- 12.1 The proposal would result in new people living in the area and this will increase demand on local services and facilities. A Section 106 Agreement was agreed between the developer; District Council and Essex County Council as part of the outline planning permission. The existing S106 dated 19th December 2022 secures the following wide range of obligations:
- 30% of the dwellings to be affordable housing, with a split of 66.66% affordable housing for rent and 33.33% shared ownership;
 - A contribution towards a new community facility at Maltings Lane;
 - The provision of a circular walking route, a play area, public open space, other amenity areas and woodland, including the requirement to agree the specification and detail of these areas with the Council, and the future management and maintenance through a management company;
 - The provision of land and it's setting out to extend the existing allotments on land adjoining the development;

- Skylark mitigation through the provision of suitable habitat, including a management plan;
- A reptile receptor site, including the requirement to agree the specification with the Council and a management plan;
- The provision of playing pitches, pavilion, and car parking, at a specification to be agreed with the Council, and the transfer of the land to the Council at nominal cost;
- A contribution towards the extension or refurbishment or reconfiguration or relocation of the Witham Health Centre;
- A contribution towards strategic 'off-site' measures as set out in the Essex Coast RAMS;
- A contribution towards early years, childcare, primary and secondary education facilities, within three miles of the appeal site;
- A contribution towards upgrading the facilities at Witham library;
- Highways works and agreement, including:
 - o a footway/cycleway along Rickstones Road including an uncontrolled crossing;
 - o the closure of the southern part of Rectory Lane to vehicles;
 - o a revised junction from Rickstones Road to the appeal site, including a bus gate (or alternative scheme to be agreed with the Council), leading to a spine road through the appeal site to Evans Way;
 - o two new bus stops either within the appeal site or elsewhere as to be agreed with the Council and Essex County Council (ECC);
 - o a controlled crossing on Rickstones Road; and,
 - o upgrading existing bus stops, or providing new bus stops, on Rickstones Road and/or Forest Road;
- A contribution to upgrade or enhance the River Walk, potentially to include improved connectivity to the River Walk from the public highway;
- A contribution to enhance the bus service that uses Forest Road and/or pedestrian and cycle improvements between the appeal site and Witham Town Centre; and,
- 2% of the dwellings to be provided as self-build/custom build plots.

12.2 There is no need to amend any of the obligations contained within the original Section 106 Agreement.

12.3 Approval of this Section 73 application would result in a new planning permission being granted. As a result, there will need to be a supplemental agreement which will bind the original Section 106 Agreement to the new planning permission.

12.4 The Section 106 Agreement contains a provision whereby the Council may agree in writing following an application under Section 73 that the covenants or provisions of the original agreement shall bind the new planning permission. Officers are however concerned that there is no legislation that establishes that a linking letter can be relied upon to bind a new planning permission to the original Section 106 Agreement. Officers

are also not aware of case law that has established that Local Planning Authorities can rely on a linking letter to secure obligations. As such Officers consider that it is prudent to require a separate deed under Section 106 of the Act to secure the planning obligations relating to the new planning permission.

13. PLANNING BALANCE AND CONCLUSION

13.1.1 Whilst this application only seeks permission to vary one planning condition the Council will be issuing a new planning permission.

13.1.2 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 assessed against the policies in this Framework taken as a whole.

13.1.3 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. 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. 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.

13.1.4 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.

13.1.5 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.

13.1.6 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).

13.1.7 The Planning Inspector who granted the outline planning permission assessed the harms and benefits of the scheme. The only change proposed by this application would be the loss of two additional trees. The other benefits and harms would remain as before and are summarised below.

13.2 Summary of Adverse Impacts

13.2.1 The adverse impacts and the weight that should be given to these factors are set out below:

Conflict with the Development Plan

13.2.2 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".

- 13.2.3 The proposed development would conflict with Policies LLP1 and SP3 of the Adopted Local Plan with regard to the Council's spatial strategy, as it proposes development outside of defined development boundaries and within the countryside. However, as detailed above, planning permission has been granted at appeal for the development which has established the principle of development at the site. This application seeks to vary that planning permission.

Harm to Trees and Hedgerows

- 13.2.4 Some trees on the appeal site would be lost, including trees that previously formed part of the golf course; a small number of tree and hedgerow along part of Rickstones Road to provide the improved bus access; thin bands through established woodland to create the proposed spine road and land around the play area. The Planning Inspector noted that the trees that would be lost are moderate and low category trees. Extensive replacement and additional landscaping and tree planting are proposed, and this can be secured through Reserved Matters applications.
- 13.2.5 This Section 73 application proposes the removal of two further trees – both assessed as being Category B trees. The loss of trees is regrettable, but Officers consider that the Applicant's proposal to plant four significant new trees would effectively mitigate the loss of the two trees and would not result in any additional harm being attributed to the loss of trees and hedgerows that would need to be considered.

Harm to the Character and Appearance of the Area and Landscape Character

- 13.2.6 The appeal site is not within a nationally designated or valued landscape and the Planning Inspector concluded the land was unremarkable. They did acknowledge there would be some harm to the landscape character of the site and surroundings, however these harms would be largely self-contained and any harm to the wider context would be limited.
- 13.2.7 The creation of the cycle and bus gate access onto Rickstones Road would result in the loss of a hedgerow and trees but the amount lost would be low and the harm reduced by the fact that there is existing built form and development along this part of the road.
- 13.2.8 Overall, the Inspector concluded that whilst there would be some limited harm as a result of changes to the character and appearance of the area; through the loss of previously undeveloped land; the loss of trees and hedges and the introduction of substantial new built development.

Agricultural land

- 13.2.9 The Agricultural Land Classification (ALC) identifies that the proposal would result in the loss of around 13 ha of Grade 3a and 1 ha of Grade 2

agricultural land, both of which are classified as best and most valuable agricultural land (BMV) in the Framework.

- 13.2.10 Paragraph 6.29 of the Adopted Local Plan confirms that the use of BMV for development is inevitable by virtue of the fact that the majority of agricultural land in the District is BMV, including a high proportion of the higher Grade 2 land.
- 13.2.11 The proposal would conflict with Paragraph 174 of the NPPF which recognises the wider benefits, including economic, of BMV, and this would weigh against the proposal although the weight given to this harm would be limited because of the context of the District.

13.3 Summary of Public Benefits

- 13.3.1 The public benefits arising from the proposal and the weight that should be accorded to these factors are set out below:

Delivery of Market and Affordable Housing

- 13.3.2 The development would allow for the delivery of up to 230 dwellings. The Council cannot demonstrate a five-year supply of housing land, contrary to the expectation set out in the presumption in favour of sustainable development in the Framework. The Planning Inspector gave further weight to the Applicant's assertion that approximately 180 of the proposed dwellings are likely to come forward within the next five-year period, which will help to meet the current shortfall. Overall, the Planning Inspector placed substantial positive weight on the proposed housing.
- 13.3.3 The S106 agreement secures that 30% of the new dwellings will be provided as affordable housing and substantial positive weight should be attributed to the proposed affordable housing.

Location and Access to Services and Facilities

- 13.3.4 The proposed development is in an accessible location to local services and facilities and is well served by, and would improve, local non-car transport connections. The proposed development would comply with the relevant sections of Policies SP6 and Policy LPP42 of the Adopted Local Plan, both of which encourage development in accessible locations and the promotion of non-car-based modes of travel. Moderate positive weight can be attributed to these factors.

Economic and Social Benefits

- 13.3.5 There would be short term economic benefits to the area through construction of the proposal. There would also be longer term economic benefits from spending in the local economy by the future occupants of the scheme. The Planning Inspector gave significant positive weight on this support for economic growth.

Biodiversity

- 13.3.6 Subject to control by conditions and the S106 agreement the development can deliver a Biodiversity Net Gain and moderate positive weight can be attributed to this benefit.

Section 106 Obligations

- 13.3.7 The S106 agreement secures the provision of 7.6 ha of public open space. This level of provision is significantly in excess of the requirements set out in Policy LLP50 of the Adopted Local Plan. The open space provision will include play areas, woodland, allotments, playing fields and a circular walk. These facilities would not only be able to be used by the future residents of the proposal but also the general public and significant positive weight can be given to this benefit.
- 13.3.8 The Applicant proposes an extensive package of measures to provide new and/or improved cycle and pedestrian connections between the development and the town centre. These works are beyond that required to mitigate the effect of the proposal and would be used by the general public in addition to the future residents of the scheme. Significant positive weight is given to these benefits.

Other

- 13.3.9 The S106 agreement also secures that 2% (likely five plots) would be provided for the development of self-build/custom build housing. There is an existing shortfall in the provision of such housing in the District and the provision of these plots can be given significant positive weight.

13.4 Planning Balance

- 13.4.1 The development would conflict with the overall Spatial Strategy of the area. Whilst the Planning Inspector only gave limited weight to this conflict, there would be conflict with the Development Plan as a whole. S38(6) of the Planning and Compulsory Purchase Act 2004 states that regard must be had to the Development Plan unless material considerations indicate otherwise.
- 13.4.2 The NPPF is a very important material consideration. Currently the Council cannot demonstrate a five-year supply of housing land and the application of policies that protect areas or assets of particular importance do not provide a clear reason for refusing the application. Paragraph 11dii of the Framework is therefore engaged and the appeal should be allowed unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 13.4.3 The planning inspector concluded that if the proposed development is assessed under the flat planning balance, having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, the inspector concluded that the benefits of the proposal 'are many and weighty'. The harms and conflicts with the Development Plan are few and of lesser overall weight. They concluded that the material considerations therefore indicate that the proposal is acceptable, and that planning permission should therefore be granted. The inspector went on to say that they did not consider that it was necessary to engage the 'tilted balance', although the lack of a five-year supply of housing land has influenced the weightings that has led to this conclusion.
- 13.4.4 Officers do not consider that the loss of the two mature Pine trees would significantly alter the inspector's assessment, even if harm were attributed to their loss. Consequently, it is recommended that planning permission is granted again for the proposed development with the wording of Condition 27 amended.

14. RECOMMENDATION

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

- A Planning Obligation to ensure that the existing planning obligations contained in the original Section 106 agreement apply to this new planning permission.

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)

Plan Description	Plan Ref	Plan Version
Land Use Parameter Plan	BW219-PP-01	Rev I
Parameter Drawing	BW219-PP-02	Rev I
Access Parameter Plan	BW219-PP-03a	Rev G
Access Parameter Plan	BW219-PP-03b	Rev F
Storey Height	BW219-PP-04	Rev J
Location Plan	BW129-PL-01	Rev E

Condition(s) & Reason(s)

Condition 1

Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

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

Condition 2

Application(s) for approval of the reserved matters shall be made to the local planning authority not later than 5th January 2026.

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

Condition 3

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

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

Condition 4

The development hereby permitted shall be carried out in accordance with the following approved drawings: BW219-PL01 Rev E, PP-01 Rev I, 02 Rev I, 03A Rev G, 03B Rev F, 04 Rev J.

Reason: For the avoidance of doubt and in the interests of good design; to ensure interests of acknowledged importance are protected in line with the frameworks proposed and agreed at outline stage.

Condition 5

The submission of reserved matters application(s) pursuant to this outline planning permission shall together provide for no more than 230 dwellings.

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

Condition 6

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 September 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.

Reason: In the interests of achieving a cohesive well-designed development that integrates with its surroundings; the Vision Statement requires further work to provide a local framework for creating beautiful and distinctive places that realise a consistent and high-quality standard of design.

Condition 7

Concurrent with the submission of reserved matters for layout under Condition 1 of this decision, details of the following shall be submitted:

- i. A Confirmation Report from an Approved Inspector or Local Authority Building Control Service that the drawings for all houses and ground floor flats proposed as affordable dwellings and shown on the submitted Affordable Housing Scheme as such (or any revisions of this Scheme subsequently submitted for approval as part of the application) have been designed to comply with Building Regulations 2015 (as amended) Part M(4) Category 2;
- ii. A Confirmation Report from an Approved Inspector of Local Authority Building Control Service that the drawings for all bungalows proposed as affordable dwellings and shown on the Affordable Housing Scheme (or any revisions of this Scheme subsequently submitted for approval as part of the application) as needing to be compliant with Building Regulations 2015 (as amended) Part M(4) Category 3 have been designed as such; and,
- iii. The affordable dwellings shall only be built in accordance with the approved details and, in the case of plots indicated in the Affordable Housing Scheme to be constructed in accordance with Building Regulations 2015 Part M(4) Category 2 or Building Regulations Part M(4) Category 3, prior to their occupation, written confirmation from an Approved Inspector or Local Authority Building Control Service shall be submitted to and approved in writing by the local planning authority to certify that they have been built to the agreed standard.

Reason: In the interests of amenity; to ensure the affordable dwellings are built an acceptable standard to perform their optimum function. Details are required at Reserved Matters stages in order that the degree of compliance with the above specified criteria can be evaluated and assessed.

Condition 8

Concurrent with the submission of reserved matters for appearance or layout under Condition 1 of this decision, an updated Noise Assessment Report shall be submitted.

Reason: To ensure the layout and design of the development that is agreed at reserved matters stages can take into account the visual and practical implications of providing noise mitigation measures that safeguard the amenity of future occupants. Details are required at Reserved Matters stages in order that the degree of compliance with the above specified criteria can be evaluated and assessed.

Condition 9

Concurrent with the submission of reserved matters for layout under Condition 1 of this decision, a Lighting Scheme designed to promote personal safety, protect living conditions and the night-time landscape and biodiversity shall be submitted. The Lighting Scheme shall detail the following:

- o Details of phasing, location and design of all lighting to be installed within the site during periods of construction and occupation;
- o Details of ownership of lighting once the development is occupied and, where relevant, details of its associated maintenance to ensure the lighting is provided in perpetuity thereof in the interests of personal safety;
- o Assessment of the impacts of the lighting scheme upon biodiversity which identifies 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; and,
- o Provision of appropriate lighting contour plans, isolux drawings and technical specifications to demonstrate which areas of the development are lit and to limit any relative impacts upon the territories of bats.

The approved lighting scheme shall be implemented prior to first occupation of the development and shall thereafter be retained and maintained as such in accordance with the approved details.

Reason: To ensure optimum levels of personal safety and prevention of crime are provided whilst also balancing constraints such as ownership, 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 Natural Environment & Rural Communities Act 2006 (Priority Habitats & Species). The details are required to accompany the layout at reserved matters stage to allow these considerations to be evaluated and assessed.

Condition 10

Concurrent with the submission of reserved matters for layout or landscaping under Condition 1 of this decision, a Biodiversity Enhancement Strategy for Protected and Priority Species shall be submitted. The content of the Strategy shall include the following:

- o Purpose and conservation objectives for the proposed enhancement measures;
- o Detailed designs to achieve stated objectives;
- o Locations of proposed enhancement measures by appropriate maps and plans;
- o Persons responsible for implementing the enhancement measures; and,
- o Details of initial aftercare and long-term maintenance (where relevant).

The development shall be implemented in accordance with the details as approved and shall be retained in that manner thereafter.

Reason: To conserve and enhance Protected and Priority species and allow the local planning authority to discharge its duties under the UK Habitats Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s.40 of the Natural Environment & Rural Communities Act 2006 (Priority Habitats & Species).

Biodiversity enhancement is integral to the development and therefore it is considered essential that this is considered concurrently with the reserved matters.

Condition 11

Concurrent with the submission of reserved matters for landscaping under Condition 1 of this decision, a Landscaping Scheme shall be submitted. This shall comprise a detailed specification of hard and soft landscaping works, to include details of the following:

- o Types and sizes of all trees/plants to be planted on the site, demonstrating that for each tree that will be removed from the site a minimum of two new trees will be planted within the public open space on the site, and that for each 1 metre of hedgerow that is removed a minimum of 2 metres of new hedgerow will be planted within the public open space on the site;
- o Numbers and distances of all plants to be planted on the site;
- o Soil specification;
- o Seeding and turfing treatment within the site;
- o Colour and type of material for all public hard surface areas and private areas visible from the public realm;
- o Watering maintenance regime for all areas of new planting; and,
- o Programme and timetable for implementation of the above works.

The Landscaping Scheme shall subsequently only be implemented in accordance with the approved details. Any trees or plants which die, are removed, or become seriously damaged or diseased within a period of five years from the completion of the development, shall be replaced in the next available planting season with others of a similar size and species.

Reason: Landscape planting is integral to the character to the development and it is considered desirable for these to be dealt with concurrently with the reserved

matters.

Condition 12

Concurrent with the submission of reserved matters for layout, landscaping or access under Condition 1 of this decision, an Arboricultural Impact Assessment Report shall be submitted. The Report shall have regard to the Preliminary Tree Removals Plan (TR&R/Prelim NE Witham/07.10.21) and Proposed Tree Management Location Details submitted at outline stage and the requirements of Condition 11 of this permission.

Reason: In the interests of amenity; to ensure the protection and retention of existing/remaining trees, shrubs and hedges. These details are required concurrent with the reserved matters as they affect the layout of the development and the provision of associated landscape features.

Condition 13

Concurrent with the submission of reserved matters for layout under Condition 1 of this decision, a Refuse Scheme shall be submitted, including the following details:

- o Location of refuse bins and recycling materials - their storage areas and waste/recycling presentation points;
- o Appearance of any associated screening or/and enclosures;
- o Confirmation that distances travelled by local authority refuse vehicle operatives from the location where a refuse vehicle are intended to stop to the presentation points specified do not exceed 20m each way;
- o Confirmation of 26 tonne carrying capacity of all roads intended for use by local authority refuse vehicles; and,
- o Refuse vehicle swept path analysis for all roads intended for use by local authority waste vehicles.

The development shall be implemented in accordance with the approved details prior to the first occupation of each relevant unit of the development and thereafter retained.

Reason: In the interests of amenity; to ensure that the development layout provides suitable facilities, to prevent the unsightly storage of refuse containers and that these requirements are accounted for in a layout presented at reserved matters stages.

Condition 14

Concurrent with the submission of reserved matters for layout under Condition 1 of this decision, a Strategy detailing the location and specification of all Electric Vehicle Charging Points to be provided shall be submitted and which, as a minimum, shall ensure each new dwelling includes provision of one charging point wherever practical.

Reason: To ensure that the new development makes adequate provision for electric vehicle charging in the interests of creating a sustainable development. Details are required concurrent with the reserved matters as they affect the provision of these features and layout.

Condition 15

Concurrent with the submission of reserved matters for appearance, landscaping or layout under Condition 1 of this decision, a plan indicating the location and general design of all walls, fences, other boundary treatments and means of enclosure shall be submitted.

Reason: In the interests of visual amenity, to ensure the appearance of boundary treatments are considered in conjunction with the design of the dwellings.

Condition 16

Concurrent with the submission of reserved matters for layout under Condition 1 of this decision, details of the location and design of all garages/car parking spaces and cycle storage facilities shall be submitted. The garages/car parking spaces and cycle storage facilities shall be provided prior to occupation of the dwelling to which they relate and shall thereafter be retained and kept available for use for their specified purpose. The garages/car parking spaces and cycle storage facilities shall be used solely for the benefit of the occupants of the dwelling of which it forms part, and their visitors, and for no other purpose and permanently retained as such thereafter.

Reason: To ensure adequate parking, garage space and cycle storage facilities are provided within the site in accordance with the Essex Vehicle Parking Standards Supplementary Planning Document (2009) and to ensure that these requirements are accounted for in a layout presented at reserved matters stages.

Condition 17

Concurrent with the submission of reserved matters for appearance under Condition 1 of this decision, a plan indicating the location and design of solar photovoltaic generation equipment for every dwelling shall be submitted.

Reason: To ensure the design of the development that is agreed at reserved matters stages can take into account the appearance of the solar pv panels that are to be provided for every dwelling. Details are required at Reserved Matters stages in order that the appearance of the panels can be taken into account when evaluating the appearance of the proposed dwellings.

Condition 18

Prior to the commencement of development, a Landscape Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following:

- o Description and evaluation of all features to be managed;
- o Ecological trends and constraints on site that might influence management;
- o Aims and objectives of management;
- o Appropriate management options for achieving aims and objectives;
- o Prescriptions for management actions;
- o Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- o Details of the body or organisation responsible for implementation of the plan; and,

- o Ongoing monitoring and remedial measures.

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

Reason: To conserve and enhance Protected and Priority species and allow the local planning authority to discharge its duties under the UK Habitats Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s.40 of the Natural Environment & Rural Communities Act 2006 (Priority Habitats & Species). The management of landscape with ecological objectives in mind is integral to the development and therefore it is considered essential that this is considered concurrently with the reserved matters. This information is required prior to commencement of development in order that the development is carried out in a manner that conserves as well enhances the ecological value of the site.

Condition 19

No development or groundworks of any kind shall commence until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP: Biodiversity shall include the following:

- o Risk assessment of potentially damaging construction activities;
- o Identification of "biodiversity protection zones";
- o 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);
- o The location and timing of sensitive works to avoid harm to biodiversity features;
- o The times during construction when specialist ecologists need to be present on site to oversee works;
- o Responsible persons and lines of communication;
- o The role and responsibilities on site of an ecological clerk of works or similarly competent person;
- o Use of protective fences, exclusion barriers and warning signs; and,
- o Areas of the site identified as habitat for Great Crested Newts in which development should be restricted as it may adversely affect this species and thus may be subject to licence under Condition 29 of this consent.

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To conserve and enhance Protected and Priority species and allow the local planning authority to discharge its duties under the UK Habitats Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s.40 of the Natural Environment & Rural Communities Act 2006 (Priority Habitats & Species). Agreement

is required as the impacts arise from the point of commencement; it is not therefore possible to delay this agreement until a later point in time if biodiversity interests are to be effectively protected.

Condition 20

No development or preliminary groundworks shall commence until a Programme of Archaeological Evaluation has been secured and undertaken in accordance with a Written Scheme of Investigation which shall previously have been submitted to and approved in writing by the local planning authority.

Reason: To enable full investigation and recording of assets of archaeological importance. Failure to agree a method for investigation of the site prior to groundworks occurring may risk the loss or damage of archaeological assets.

Condition 21

No development or preliminary groundworks shall commence in those areas identified as containing archaeological deposits until the satisfactory completion of fieldwork undertaken in accordance with an Archaeological Mitigation Statement detailing excavation / preservation strategy, which shall previously have been submitted to and approved in writing by the local planning authority.

Reason: To enable full investigation and recording of assets of archaeological importance. Failure to agree a method for mitigation of harm to archaeological assets identified in the fieldwork prior to groundworks occurring may risk the loss or damage of archaeological assets.

Condition 22

No development shall commence until a detailed Surface Water Drainage Scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include the following (but not be limited to this):

- o Limitation of discharge rates to the 1 in 1 year greenfield rate for both the eastern (5.3l/s) and western (13.1l/s) parcels for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change, subject to agreement with the relevant third party,
- o All relevant permissions to discharge from the site into any outfall should be demonstrated;
- o Provision of sufficient storage to ensure no off-site flooding as a result of development during all storm events up to and including the 1 in 100 year plus 40% climate change event;
- o Demonstration that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event;
- o Demonstration that Phases 1 and 2 of development in the south have been designed to accommodate the flows from the development hereby approved;
- o Demonstration, as far as is practicable, that use of above ground SuDS has been maximised throughout the development to enable the conveyance and treatment of water as close to source as possible;

- o Demonstration that rainwater reuse has been considered and incorporated as much as possible as the primary method of managing surface water drainage;
- o Provision of final modelling calculations for all areas of the drainage system;
- o Provision of an appropriate level of treatment for all run-off leaving the site, in line with the Simple Index Approach as detailed in Chapter 26 of the CIRIA SuDS Manual C753;
- o Provision of detailed engineering drawings of each component of the drainage scheme; and,
- o Provision of final drainage plans which detail exceedance and conveyance routes, finished floor and ground levels, and location and sizing of any drainage features.

The scheme shall subsequently be implemented as approved prior to first occupation of the development.

Reason: 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. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

Condition 23

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

Reason: The National Planning Policy Framework paragraph 167 and paragraph 174 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

Condition 24

No development shall commence until a comprehensive Phase 2 Land Contamination Survey has been undertaken to assess the nature and extent of any contamination on the site and a copy of this survey's findings, together with a remediation scheme to bring the site to a suitable condition in that it represents an acceptable risk (if required), has been submitted to and approved in writing by the local planning authority. The survey's findings must subsequently be implemented as

approved. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Such agreed measures shall be implemented and completed 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 re-assessed in accordance with the above and a separate remediation scheme shall be submitted to and agreed in writing by the local planning authority. Such agreed measures shall be implemented and completed prior to the first occupation of any parts of the development.

Prior to occupation of any property hereby permitted on the part of the site where contamination is found the developer shall submit to the local planning authority a signed certificate to confirm that the remediation works have been completed on that part of the site in accordance with the documents and plans detailed in the approved contaminated land assessment reports and the approved remediation scheme.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. 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 25

No development shall commence until an Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the local planning authority. The AMS will include a Detailed Tree Protection Plan (DTPP) in broad accordance with the Arboricultural Impact Assessment Report approved under Condition 12 and provide details of trees to be retained, 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, operation of site machinery, site storage and other construction related facilities, and agreement to notify the local planning authority in writing at least five working days prior to the commencement of development on site.

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

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

the duration that construction occurs on the site, and at such intervals have been agreed within the AMS, the Project Arboricultural Consultant shall submit a report to the local planning authority summarising the findings of their site inspections carried out during that period.

The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the relevant part of the development.

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 they relate to measures that need to be put in place prior to development commencing.

Condition 26

No development shall commence, including any groundworks, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:

- o A Construction Traffic Management Plan to ensure safe access to/from the site including details of any temporary haul routes and the means by which these will be closed off following the completion of the construction of the development;
- o A Dust and Mud Control Management Scheme;
- o The parking of vehicles of site operatives and visitors;
- o The loading and unloading of plant and materials;
- o The storage of plant and materials used in constructing the development;
- o The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- o Wheel washing facilities;
- o Measures to control the emission of dust and dirt during construction;
- o A scheme for recycling/disposing of waste resulting from demolition and construction works;
- o A scheme to control noise and vibration during the construction phase; and,
- o Provision of a dedicated telephone number(s) for members of the public to raise concerns/complaints, and a strategy for pre-warning residents of noisy activities/sensitive working hours.

The Statement shall thereafter be implemented as approved.

Reason: In the interests of residential amenity; to ensure the construction phases of the development operate without causing unacceptable harm to the amenity of nearby occupants and 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. Agreement is required as the impacts 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 27

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 & 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.

Reason: To provide suitable mitigation for the loss of trees and to contribute towards the provision of a visually attractive Public Open Space and development.

Condition 28

No development shall commence until the following documents have been submitted to and approved in writing by the local planning authority:

- i. A detailed assessment of ground conditions (including drainage and topography) of the land proposed for the playing field which identifies constraints which could adversely affect playing field quality; and,
- ii. Where the results of the assessment to be carried out pursuant to (i) above identify constraints which could adversely affect playing field quality, a detailed scheme to address any such constraints. The scheme shall include a written specification of the proposed soil structure, proposed drainage, cultivation and other operations associated with grass and sports turf establishment and a programme of implementation.

The approved scheme shall be carried out in full and in accordance with the approved programme of implementation. The land shall thereafter be maintained in accordance with the scheme and made available for playing field use in accordance with the scheme.

Reason: To ensure that suitable site investigation and specification is agreed for the setting out of the grass sports pitches that will be provided as part of the development.

Condition 29

No development or groundworks of any kind shall commence within the areas identified within the CEMP: Biodiversity under Condition 19 until the local planning authority has been provided with either:

- i. 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
- ii. A statement in writing from Natural England, or from a qualified ecologist if Natural England does not respond within 56 days to a written request for a statement, to the effect that it does not consider that a specified activity / development will require a licence.

Reason: To conserve and enhance Protected and Priority species and allow the local

planning authority to discharge its duties under the UK Habitats Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended), s.40 of the Natural Environment & Rural Communities Act 2006 (Priority Habitats & Species) and s.17 of the Crime & Disorder Act 1998. Agreement is required as the impacts arise from the point of commencement of development in these areas; it is not therefore possible to delay this agreement until a later point in time if biodiversity interests are to be effectively protected

Condition 30

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

Reason: In the interests of visual amenity, to ensure that the development does not prejudice the character and appearance of the locality.

Condition 31

No piling shall be undertaken on the site in connection with the construction of the development until a system of piling and resultant noise and vibration levels has been submitted to and agreed in writing by the local planning authority. The agreed noise and vibration levels shall be adhered to throughout the construction process.

Reason: In the interests of residential amenity; to ensure that noise and vibration caused by piling methods is controlled in order that it does not unacceptably affect the amenity of occupants of dwellings on the site or/and in the surrounding area.

Condition 32

A Post Excavation Assessment shall be submitted to and approved in writing by the local planning authority within six months of the completion of the fieldwork; such assessment shall include details of the completion of post excavation analysis, preparation of a full site archive and report and an undertaking for deposition of a post excavation report at the local museum. The report shall be deposited as agreed within the stated timeframes in the Post Excavation Assessment.

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

Condition 33

Notwithstanding the submitted details, any works to provide the priority junction and site access off Rickstones Road, bus lane and gate, as shown in principle on drawings numbered 2002470-005 B and 2002470-012 B, shall not occur unless and until a Bat Survey Report has been submitted and approved in writing by the local planning authority containing the results of at least two roost surveys of tree T1 (as identified in SES Ecological Impact Assessment October 2021) between the months of May to September together with associated proposed mitigation and enhancement measures should bats be found to be roosting in this tree. Tree T1 shall be retained unless the local planning authority has expressly agreed in writing to its removal.

Reason: In the interests of biodiversity; to conserve and enhance Protected and Priority species and allow the local planning authority to discharge its duties under the UK Habitats Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s.40 of the Natural Environment & Rural Communities Act 2006 (Priority Habitats & Species).

Condition 34

The dwellings shall not be first occupied until the Technical Housing Standards - Nationally Described Space Standards (2015) has been complied with and the details of compliance provided to the local planning authority.

Reason: In the interests of amenity; to ensure the affordable dwellings are built an acceptable standard to perform their optimum function. Details are required at Reserved Matters stages in order that the degree of compliance with the above specified criteria can be evaluated and assessed.

Condition 35

Prior to first occupation of the development, a SuDS Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and approved in writing by the local planning authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

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

Condition 36

Prior to first occupation of the development, a Revised Residential Travel Plan together with the contents of Residential Travel Information Packs for sustainable transport (including information as to circular walking routes accessible from the application site) shall have been submitted to and agreed in writing with the local planning authority. The Revised Residential Travel Plan shall be implemented as agreed. The provision of Residential Travel Information Packs shall be distributed as agreed to the owners of each dwelling at the point of their first occupation.

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

Condition 37

Prior to first occupation of the development, full details of the design and specification of the ball stop mitigation, including details of management and maintenance responsibilities, shall have been submitted to and approved in writing by the local

planning authority. The approved details shall be installed in full before the development is first occupied and thereafter be managed and maintained in accordance with the approved details.

Reason: To ensure that suitable measures are incorporated in to the design to ensure the safe use of both the sports pitches and the highway.

Condition 38

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

- o Monday to Friday 0800 hours - 1800 hours;
- o Saturday 0800 hours - 1300 hours; and,
- o Bank Holidays & Sundays - no work.

Reason: In the interests of residential amenity; to ensure that the construction work associated with the development does not unacceptably harm the living conditions of occupants of adjacent properties.

Condition 39

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

Reason: In the interests of residential amenity; to ensure that the construction work associated with the development does not unacceptably harm the living conditions of occupants of adjacent properties.

Condition 40

If the development hereby approved does not commence (or having commenced, is suspended for more than 12 months) within three years from the date of this outline planning consent, all ecological measures previously approved shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to: i) establish if there have been any changes in the presence and/or abundance of Protected or Priority species; and, ii) identify any likely new ecological impacts that might arise from the changes.

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

Reason: To conserve and enhance Protected and Priority species and allow the local planning authority to discharge its duties under the UK Habitats Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s.40 of the Natural Environment & Rural Communities Act 2006 (Priority Habitats & Species). Further agreement is required if commencement is delayed because this delay may give rise to new impacts which have not previously been accounted for; it is not therefore

possible to delay this agreement until a later point in time if ecological interests are to be effectively protected.

Condition 41

The applicant or any successor in title must maintain yearly Logs of SuDS Maintenance which should be carried out in accordance with any approved Maintenance Plan under Condition 35 of this decision. The Logs of SuDS Maintenance must be available for inspection upon a request by the local planning authority.

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

Condition 42

Unless revised under a condition of this consent or legal obligation tied to it, all ecological mitigation measures and/or works shall be carried out in accordance with the following documents: Ecological Impact Assessment (Southern Ecological Solutions Ltd, October 2021), Skylark Mitigation Strategy (Southern Ecological Solutions Ltd, Jul 2021) and Reptile Mitigation Strategy - Rev B (Southern Ecological Solutions Ltd, July 2021).

Reason: To conserve and enhance Protected and Priority species and allow the local planning authority to discharge its duties under the UK Habitats Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s.40 of the Natural Environment & Rural Communities Act 2006 (Priority Habitats & Species).

Condition 43

Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order (England) 2015 (as amended) the Sports Pitches shown to be provided in the north of the site on Land Use Parameters Plan (BW219-PP-01 Rev I) shall not be lit unless the local planning authority gives written consent to details of such lighting either submitted in conjunction with reserved matters application(s) to this planning application or by a separate application for planning permission made thereafter.

Reason: In the interests of residential amenity; to ensure that the effects of lighting erected to the Sports Pitches is given proper consideration and to provide an opportunity for the hours of use to be controlled as necessary.

Condition 44

Notwithstanding the submitted details, the development hereby permitted shall provide for a minimum of 25% of the Market Housing as 1 or 2-bed dwellings.

Reason: To ensure an appropriate mix of market housing is secured across the site to help meet housing need for market housing as identified in the Council's Strategic Housing Market Assessment and in accordance with Policy LLP35 of the Adopted Braintree District Local Plan 2013-2033.

Condition 45

Notwithstanding the submitted details, the spine road to be provided through the development (as shown in principle between Evans Way and Rickstones Road on drawing number Vehicular Access & Movement Parameter Plan BW219-PP-03B Rev F) shall have a minimum carriageway width of 6.75 metres.

Reason: To protect highway efficiency of movement and safety and to ensure the proposed site is accessible by more sustainable modes of transport, such as public transport, cycling and walking, in accordance with policy DM1 and DM9 of the Highway Authority's 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
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP17	Strategic Growth Location - Land East of Great Notley South of Braintree
LPP31	Affordable Housing
LPP35	Housing Mix, Density and Accessibility
LPP42	Sustainable Transport
LPP43	Parking Provision
LPP46	Broadband
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
LPP59	Archaeological Evaluation, Excavation and Recording
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
LPP68	Green Buffers
LPP69	Protected Lanes
LPP70	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP73	Renewable Energy Schemes
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems
LPP77	External Lighting
LPP78	Infrastructure Delivery and Impact Mitigation

APPENDIX 3:

SITE HISTORY

Application No:	Description:	Decision:	Date:
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).		
23/01288/DAC	Application for approval of details as reserved by condition 6 of approved application 20/02060/OUT (allowed at appeal) - Submission of Design Code	Pending Consideration	
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	