

PLANNING COMMITTEE AGENDA

Tuesday, 16 March 2021 at 7.15pm

In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held via Zoom and by the Council's YouTube channel – Braintree District Council Committees.

Members of the public will be able to view and listen to this meeting via YouTube.

To access the meeting please use the link below:

<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.

Membership:-

Councillor J Abbott	Councillor Mrs I Parker (Vice Chairman)
Councillor K Bowers	Councillor F Ricci
Councillor T Cunningham	Councillor Mrs W Scattergood (Chairman)
Councillor P Horner	Councillor Mrs G Spray
Councillor H Johnson	Councillor N Unsworth
Councillor D Mann	Councillor J Wrench
Councillor A Munday	

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

A WRIGHT
Chief Executive

INFORMATION FOR MEMBERS – DECLARATIONS OF MEMBERS' INTERESTS

Declaration 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 on a Planning Application/Agenda Item:

In response to the Coronavirus the Council has implemented procedures for public question time for its virtual meetings which are hosted via Zoom.

The Agenda allows for a period of up to 30 minutes for public question time.

Participation will be via the submission of a written question or statement which will be read out by an Officer or the Registered Speaker during the meeting. All written questions or statements should be concise and should be able to be read **within 3 minutes** allotted for each question/statement.

Members of the public wishing to participate are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by midday on the working day before the day of the Committee meeting. For example, if the Committee meeting is due to be held on a Tuesday, the registration deadline is midday on Monday, (where there is a bank holiday Monday you will need to register by midday on the previous Friday).

The Council reserves the right to decline any requests to register for public question time if they are received after the registration deadline.

Upon registration members of the public may indicate whether they wish to read their question/statement or to request an Officer to read their question/statement on their behalf during the virtual meeting. Members of the public who wish to read their question/statement will be provided with a link to attend the meeting to participate at the appropriate part of the Agenda.

All registered speakers are required to submit their written questions/statements to the Council by no later than 9am on the day of the meeting by emailing them to governance@braintree.gov.uk. In the event that a registered speaker is unable to connect to the virtual meeting their question/statement will be read by an Officer.

Questions/statements received by the Council will be published on the Council's website. The Council reserves the right to remove any defamatory comment in the submitted questions/statements.

For the Planning Committee only, the order in which questions and statements will be read is members of the public, Parish Councils/County Councillors/District Councillors, Applicant/Agent.

The Chairman of the Planning Committee has discretion to extend the time allocated for public question time and to amend the order in which questions/statements are presented to the Committee.

Documents: Agendas, Reports, Minutes and public question time questions and statement can be accessed via www.braintree.gov.uk

Data Processing: During the meeting the Council will be collecting performance data of participants' connectivity to the meeting. This will be used for reviewing the functionality of Ms Teams/Zoom and YouTube as the Council's platform for virtual meetings and for monitoring compliance with the legal framework for Council meetings. Anonymised performance data may be shared with third parties.

For further information on how the Council processes data, please see the Council's Privacy Policy. https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy

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

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

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

3 Minutes of the Previous Meeting

To approve as a correct record the Minutes of the meetings of the Planning Committee held on 16th February 2021 and 9th March 2021 (copies to follow).

4 Public Question Time

(See paragraph above)

5 Planning Applications

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

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

PART A**Planning Applications**

- | | | |
|-----------|---|----------------|
| 5a | App. No. 19 00958 FUL - Seven Seas Marble and Granite, Coggeshall Road, KELVEDON | 6 - 26 |
| 5b | App. No. 20 01515 FUL - 197 London Road, BLACK NOTLEY | 27 - 56 |
| 5c | App. No. 20 01568 FUL - Whitehouse Business Park, White Ash Green, HALSTEAD | 57 - 70 |

PART B**Minor Planning Applications**

There are no applications in Part B.

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.

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.

PRIVATE SESSION**Page****7 Urgent Business - Private Session**

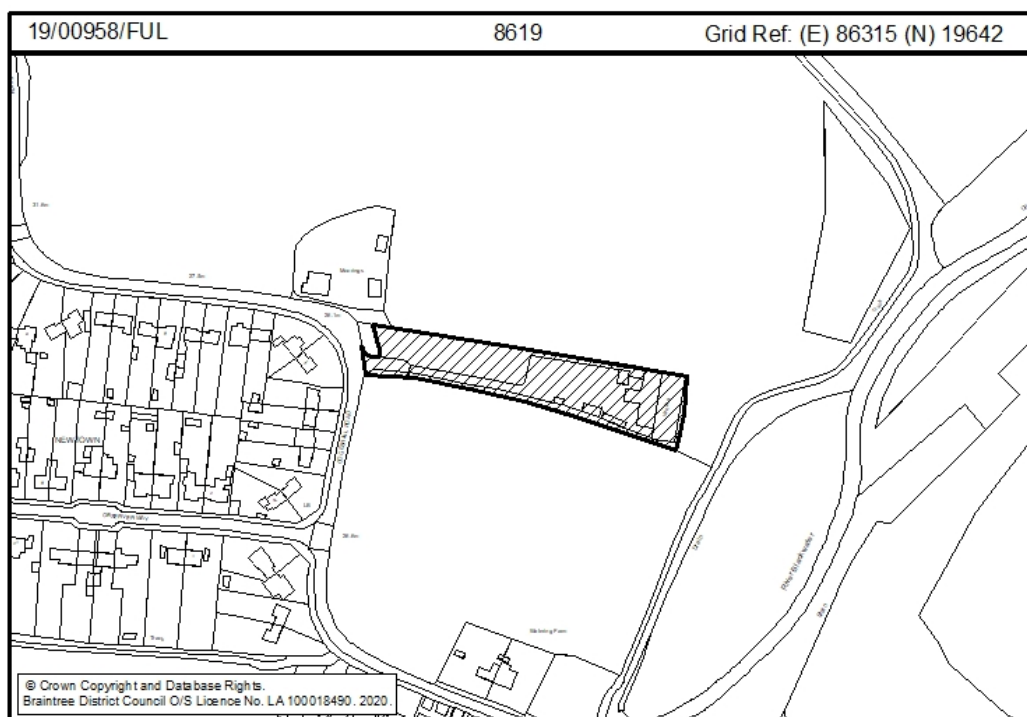
To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.

PART A

AGENDA ITEM NUMBER 5a

APPLICATION NO: 19/00958/FUL
DATE: 14.05.19
VALID:
APPLICANT: Mrs Susan Chung
Seven Seas Marble And Granite, Coggeshall Road,
Kelvedon, Essex, CO5 9PE
AGENT: Parker Associates
Jason Parker, Beeches Studio, The Beeches, Church
Road, Fingringhoe, Colchester, Essex, CO5 7BN
DESCRIPTION: Residential development of 3 detached dwellings,
garages, access road, turning head and landscaping.
LOCATION: Seven Seas Marble And Granite, Coggeshall Road,
Kelvedon, Essex, CO5 9PE

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PS7RLDBF0JD00>

SITE HISTORY

01/00008/REF	Proposed stationing of portakabin for office use	Appeal Allowed	05.06.01
02/00016/REF	Proposed removal of condition no. 6 of planning permission BTE/741/79 and condition 8 of planning permission BTE/1310/76	Appeal Dismissed	06.09.02
00/01409/FUL	Proposed stationing of portakabin for office use	Refused then allowed on appeal	16.10.00
01/01926/FUL	Proposed removal of condition no. 6 of planning permission BTE/741/79 and condition 8 of planning permission BTE/1310/76	Refused then dismissed on appeal	19.02.02
03/00189/COU	Change of use of land to provide site screening	Withdrawn	26.02.03
04/00444/ADV	Display of non-illuminated company signage	Refused	27.04.04
76/1310/P	Use of site and erection of storage shed/workshop for purposes in connection with pipework and plumbing/heating business.	Granted	03.03.77
76/01310/1/P	Erection of workshop building	Granted	30.05.77
79/00741/P	Erection of extension to workshop building	Granted	28.06.79
75/00002	Cutting firewood and storage of materials. Use of garage for accommodation of lorry and for carrying out repairs, storage of diesel, spares, oils engineering tools and equipment and materials for use in a haulage business and other material	Granted	21.07.75
74/00001/P	Certificate within class 3	Refused	23.08.74
99/01887/FUL	Variation of conditions 4 and 5 of Application No. BTE/1310/76 - Use of	Granted	19.04.00

	premises for general industrial purposes (B1,B2 and B8)		
09/00458/FUL	Retention of portakabin for office use for a period of 5 years	Granted	11.06.09
14/01258/OUT	Erection of 4 no. dwellings and associated outbuildings	Refused	19.01.15
19/00959/FUL	Change of use of existing light industrial building to offices	Withdrawn	28.11.19

POLICY CONSIDERATIONS

On the 22nd February 2021, Braintree District Council adopted the Shared Strategic Section 1 Local Plan.

On adoption, the policies in the Shared Strategic Section 1 Local Plan superseded Policies CS1, CS4, CS9 and CS11 of the Core Strategy (2011).

The Council's Development Plan therefore consists of the Braintree District Local Plan Review (2005) ("the Adopted Local Plan"), the policies of the Core Strategy (2011) (the Core Strategy") which are not superseded, the Shared Strategic Section 1 Local Plan (2021) ("the Section 1 Plan"), and any Adopted Neighbourhood Plan.

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 Plan") and the weight that can be given is related to:

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

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

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

Accordingly the Council affords some weight to the Section 2 Plan.

National Planning Guidance

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

Braintree District Local Plan Review 2005

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

Braintree District Local Development Framework Core Strategy 2011

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

Braintree District Shared Strategic Section 1 Local Plan (2021) & Draft Section 2 Local Plan (2017)

SP1	Presumption in Favour of Sustainable Development
SP3	Meeting Housing Needs
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development
LPP60	Heritage Assets and their Settings
LPP63	Archaeological Evaluation, Excavation and Recording
LPP71	Landscape Character and Features

LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP75	Energy Efficiency
LPP78	Flooding Risk and Surface Water Drainage
LPP81	External Lighting

Kelvedon Neighbourhood Plan

The Kelvedon Neighbourhood Plan is at Regulation 14 stage, therefore only limited weight can be applied at the time of preparing this report.

Other Material Considerations

Essex Design Guide

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

Essex Parking Standards/Urban Space Supplement

Village Design Statement

Open Space SPD

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with the transitional arrangements for the Council's new Scheme of Delegation at the request of the Chairman and Vice Chairman of the Planning Committee.

DESCRIPTION OF THE SITE AND SITE CONTEXT

The site comprises a long but narrow parcel of land on the northern side of Kelvedon accessed from Coggeshall Road. The broader site contains two distinct elements; a commercial unit at the very rear of the site, and managed grassland on the more western aspect towards the top of the site. It is primarily the managed grassland area which is subject to this planning application for residential development. The site comprises trees and hedges running along both the northern and southern boundaries, with some small gaps in places. The bottom half of the site which is occupied by the commercial unit is located within Flood Zones 2 and 3 respectively.

In terms of wider context, the site is adjacent (immediately to the south) to Watering Farm, where outline planning permission was granted under application reference 17/02271/OUT for up-to 35 dwellings. A reserved matters application has also now been submitted for this site (Application Reference 20/02128/REM) and is currently pending a decision. To the north, the site is adjacent to agricultural fields.

The application site is also situated to the east of a Grade II listed building known as Moorings (list entry number: 1337634). The first edition OS map marks the property as Mill Farm, which was historically isolated, although is

now partially surrounded by late twentieth century housing, following the construction of Observer Way and houses along Coggeshall Road.

PROPOSAL

The application in this case proposes to erect 3 x 1" storey four bedroom, eight person residential dwelling houses. One unit would front onto Coggeshall Road, while the other two units would be perpendicular and face in a south-north direction further into the site. The existing access road which runs alongside the southernmost boundary would be retained, with the proposed dwellings sited on the area of managed grassland.

The application proposal has been amended from its initial submission with a reduction in the number of units sought from 5 to 3 dwellings.

SUMMARY OF CONSULTATION RESPONSES

Environment Agency

Object to the development due to the Flood Risk Assessment not being updated with the latest layout of three houses. The Flood Risk Assessment was updated however the Environment Agency have yet to provide a response (at the time of writing). If a response is received following the publication of the report, then this will be circulated in advance of the Planning Committee meeting to Members.

BDC Ecology

No objection subject to conditions

BDC Waste

No objection.

ECC Historic Buildings Consultant

Objected to the development of five houses:

"The proposed development will be harmful to the setting of the listed building, which has already been detrimentally affected due to the construction of neighbouring dwellings. Further encroachment upon the building's setting will further remove it from its original context, harming its relationship with the surrounding landscape and original function, affecting the way in which the building is both experienced and understood.

Furthermore, the proposed layout of the development, in a strip formation perpendicular to Coggeshall Road, is at odds with the nature of development within the area, in which built form largely follows the line of existing roads. Due to the proximity of the site to the Kelvedon Conservation Area boundary, this perpendicular, linear form of

development will also affect the setting of the Conservation Area, which is largely open, altering the approach into the core of the settlement and thus how the Conservation Area is perceived.

In conclusion, I feel this application will be harmful to the setting of the listed building and will have a negative impact upon the approach to the Kelvedon Conservation Area, which is contrary to section 196 of the NPPF.”

Following discussions between the developer, Officer and Historic Buildings Consultant, the current scheme for 3 dwellings largely addressed some of these concerns:

“I maintain that any development of the site will be harmful to the setting of the listed building, which has already been detrimentally affected due to the construction of neighbouring dwellings. This harm is at the lower end of less than substantial. Further encroachment upon the buildings setting will further remove it from its original context, harming its relationship with the surrounding landscape and function as a farmhouse, affecting the way in which the building is both experienced and understood.

Nevertheless, if development of the site is found to be acceptable by the local authority, the reduction in units is positive, partially mitigating the harm to Moorings setting. At the northern side the buildings setting will be maintained, whilst views towards Moorings looking north west from Coggeshall Road will maintain its sense of relative isolation. The design and layout of the three dwellings responds to their proximity to the listed building, with a low ridge height and generous spacing within the site, creating a loose grain of development and preventing overcrowding. Plot One faces Coggeshall Road, mimicking the placement of other buildings nearby, which too is positive. The set back of Plot One also limits how the development encroaches upon Moorings, maintaining the green area at the western edge of the site and making reference to the rural location.

The fenestration of the new dwellings could be improved, sidelights do not feature on any of the surrounding properties I recommend the windows either side of the front doors are removed. In my opinion, the sidelights draw too much focus to the door, creating an unbalanced elevation. Reducing the height of the windows on the front elevations and amending the rear windows, which lack balance, is also recommended. Full details could be provided via condition, should the local authority approve this application.

To conclude, I feel that any development of the site will cause a low level of less than substantial harm to the significance of the listed building, Moorings, by harming its setting. For this reason, section 196 of the NPPF is relevant, and this harm must be outweighed by the public benefit of the scheme. If the development of the site is deemed appropriate by the local authority, the revised drawings are a notable improvement from the

initially submitted scheme, with a density and design which will help to maintain some of the listed buildings existing setting.”

The sidelights have since been removed to partially address these comments, as well as the ground floor rear fenestration altered.

ECC Highways

Initially objected to the application based on a lack of information in regards to the suitability of the access. Further information was provided to demonstrate that visibility could be achieved in both directions of 2.4m by 43m. As such, Essex Highways are satisfied that there would be sufficient visibility for the access to be suitable for the proposed development.

BDC Environmental Health

No objection subject to conditions in regards to site clearance, dust and mud, no burning or piling, and a contamination assessment.

PARISH / TOWN COUNCIL

Kelvedon Parish Council

Objected to the development of 5 houses on the following summarised grounds:

- Outside of village envelope
- Existing access is not suitable to accommodate additional vehicular movements, especially with other approved developments nearby
- Large dwelling for a small plot – a different mix should be sought
- Possible traffic implications of users of the commercial unit at the rear going past proposed dwellings
- Harm to the nearby river corridor

No further representation was received when re-consulted for three dwellings.

REPRESENTATIONS

Two general comments and 10 objections have been received from 5 neighbouring properties (including Kelvedon and Feering Heritage Society) setting out the following summarised comments and concerns:

- Site outside of development boundary
- No pedestrian connectivity on the same side as the access
- Flooding issues
- Issues of the retention of the trees and hedgerows to the rear
- Could affect wildlife near the river corridor – no evidence on how the development will protect it
- Should consider watering farm and this site together
- Limited highway capacity in the area given recent development approvals

- Access not suitable
- Limited space for trucks and deliveries
- No provision of amenity land
- Need for smaller housing in the village
- Not sufficient parking with no potential for on street parking
- Needs RAMS payment

REPORT

National Planning Policy Framework (NPPF)

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

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

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

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

In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is whether the Council can robustly demonstrate a 5 Year Housing Land Supply. This will

affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan.

The Development Plan

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

Policy RLP2 of the Adopted Local Plan states that new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside these areas countryside policies will apply. Policy CS5 of the Core Strategy specifies that development outside Town Development Boundaries and Village Envelopes will be strictly controlled to uses appropriate within the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.

The application in this case seeks planning permission for the erection of 3 new dwellings outside of settlement limits as defined by the Adopted Development Plan. The application would represent a departure from Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy and is therefore considered to be contrary to the Adopted Development Plan.

5 Year Land Supply

The Council publishes a 5 year housing land trajectory as of 31st March each year, the most recent position therefore is that of 31st March 2020. Within this trajectory the Council considered that it had a 4.52 year supply of housing, based on a 20% buffer. However there have been a number of factors which the Council must now take into account since this trajectory was published which will have an impact on the Council's 5 year housing land supply position.

At its full Council on the 22nd February 2021 Braintree District Council approved the adoption of the Section 1 Plan. On its adoption the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013 - 2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.

The latest Housing Delivery Test (HDT) results were published in January 2021. Prior to the publication of this year's results, the Council was in the category of having to provide a 20% buffer to its Housing Land Supply. The new results (which include an allowance for the impact of the current pandemic) confirm that the Council no longer needs to apply a 20% buffer and can revert to the usual 5% buffer. This applies from the day of the publication of the results.

The housing land supply position has been considered in detail by several Planning Inspectors at recent public inquiries, most notably and in detail through a decision on a site in Rayne. In the conclusion to that appeal the Inspector notes that: *'In my judgement, based on the specific evidence before the Inquiry, the 4.52 years supply claimed by the Council appears to me to be optimistic and, although I do not consider it to be as low as the 3.72 years claimed by the appellants, it is somewhere between the two figures'*. Whilst the Inspector therefore did not come to a firm conclusion on which the Council can base its current position, it is noted that she considered it somewhere between the two figures proposed. That decision was made at a time before the adoption of the Section 1 Plan (and thus calculations of housing need were based on the Standard Method), and before the publication of the latest HDT results.

Nonetheless, focusing on her conclusions on the Council's claimed supply, the Council accepts the Inspector's finding within that inquiry in respect of four of the sites which the Council had previously included within its trajectory. The expected supply from those four sites should be removed from the claimed supply, which has the effect of removing 516 homes from the supply.

Given all of the evidence before it – including the use of the new housing requirement from the Section 1 Plan, the use of a 5% buffer, and the adjustment to supply, the Council considers that the current 5 year Housing Land Supply for the District is 3.73 years.

It should be noted, however, that it is approaching the end of the monitoring year and the Council will undertake a full review of the housing land supply position as at the 31st March 2021, which it will publish as soon as it is complete.

As the Council cannot demonstrate the required five Year Housing Land Supply the 'tilted balance' of Paragraph 11(d) of the NPPF is engaged. It also means that the most important Development Plan policies for determining this application, those relevant to the provision of housing, are out of date.

Location and Access to Services and Facilities

The NPPF encourages homes with accessible services which limit the need to travel, especially by car, although it is acknowledged that the NPPF also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas (Paragraph 103). Paragraph 78 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

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

Whilst located outside of a development boundary, the site is closely connected to the Key Service Village of Kelvedon, and thus would not be

isolated by virtue of Paragraph 79 of the NPPF. The sites location near to the development boundary of a Key Service Village means that there is a higher level of shops, services and facilities which meet day-to-day needs, and regular, sustainable transport links or good strategic transport links to larger towns.

In terms of pedestrian access to these facilities, future residents would be required to cross from the access point to the existing footpath on the opposite side of Coggeshall Road. The speed limit of the road at this stretch is 30mph, however it is located in close proximity to a bend in the road. The footways as existing into the village are approx. 1m in width, however as part of other nearby developments, some of these footways will be widened in closer proximity to the village.

In any case, the accessibility of the location is a material factor which weighs in favour of the proposal in the overall planning balance, although this benefit is reduced slightly owing to the lack of footpath from directly outside of the access.

Heritage

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Policy RLP100 of the Adopted Local Plan and Policy LPP60 of the Section 2 Plan states inter alia that works will be permitted where they do not harm the setting, character, structural stability and fabric of the building (or structure); and will not result in the loss of, or significant damage to the building or structure's historic and architectural elements of special importance, and include the use of appropriate materials and finishes.

The Historic Buildings Consultant considers that any development of this site would be harmful to the setting of the listed building, which has already been detrimentally affected due to the construction of neighbouring dwellings. This harm is at the lower end of less than substantial. Further encroachment upon the buildings setting will further remove it from its original context, harming its relationship with the surrounding landscape and function as a farmhouse, affecting the way in which the building is both experienced and understood.

Notwithstanding these comments, the Historic Buildings Consultant considered a reduction from 5 units (as originally proposed) to 3 units would

be less harmful to the setting of the listed building, while there were other positive amendments made such as stepping Plot 1 back and changing its orientation to address the road frontage. The Historic Buildings Consultant also raised concerns about proposed side-lights and the rear fenestration, however these elements have since been omitted/amended.

Overall, the Historic Buildings Consultant considers that any development of the site will cause a low level of less than substantial harm to the significance of the listed building, Moorings, by harming its setting. For this reason, Paragraph 196 of the NPPF is relevant, and this harm must be outweighed by the public benefit of the scheme.

In this case, in terms of heritage harm, it is not considered that this harm would be so significant in the heritage balance within Paragraph 11 of the NPPF to outweigh the public benefits of the scheme. Therefore it is considered that this harm must be weighed in the overall planning balance, tilted in favour of development owing to the lack of 5 year land supply. This is set out at the end of the report.

Design, Appearance and Layout

Paragraph 124 of the National Planning Policy Framework (NPPF) states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. It also states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127 of the NPPF states, amongst other things, that developments should function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Furthermore, the Governments 'National Design Guide 2019' places increased importance on the importance of good design, amenity, wellbeing and sense of place for all developments.

In addition to this, Policy RLP90 of the Adopted Local Plan requires designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping. Policy LPP55 of the Section 2 Plan seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.

The Council has adopted the Essex Design Guide as a Supplementary Planning Document. This indicates that dwellings with two bedrooms should be provided with a private rear garden of 50sq.m or more, and three bedroom dwellings should be provided with 100sq.m or more. The Essex Design Guide also states that to provide an acceptable degree of privacy, back to back

separation distances between dwellings should be a minimum of 25m. Furthermore, Policy RLP56 of the Adopted Local Plan requires that sufficient vehicle parking should be provided for all new development in accordance with the Essex County Council Vehicle Parking Standards 2009.

Policies RLP80 and RLP81 of the Adopted Local Plan state inter alia that development should not be detrimental to the distinctive landscape features and habitats of the area such as trees, hedges, woodlands, grasslands, ponds and rivers. RLP80 states that development that would not successfully integrate into the local landscape will not be permitted. Where development is proposed close to existing features, it should be designed and located to ensure that their condition and future retention will not be prejudiced. Additional landscaping including planting of native species of trees and other flora may be required to maintain and enhance these features. These policies are largely echoed in Policies LPP69 and LPP71 of the Section 2 Plan.

As alluded to in the Heritage section, this application has undergone numerous amendments from when it was originally submitted. The most notable changes are that the unit numbers have been reduced from 5 to 3, while the scale and appearance of the dwellings have been amended to 1" storey dwellings. This report will focus on the most up-to-date scheme currently before Members for consideration.

The application proposes 3 x four bedroom, eight person dwelling houses. They would all be similar in terms of style and character, and would be 1" storey in scale, with a projecting front gable and roof lights either side. A chimney stack and attached single garage would be included with each dwelling.

Internally, all units would have an appropriate layout with room sizes in excess of Nationally Described Space Standards. The dwellings would be dual aspect with all of the rooms provided with outlook and good access to natural light by way of vertical windows with the exception of the upstairs dressing/en-suite room which would be contained within the roof space above the attached garages. Plot 1 which faces Coggeshall Road would be provided with a private rear garden of 211sq.m, whilst Plots 2 and 3 would have 245sq.m and 314sq.m respectively. The gardens for these units would be principally to the side and wrap around the rear of the dwellings.

Access would be retained for the business at the rear, however it is not the type of business which would incur heavy goods vehicles regularly visiting the site. As such, while there may be some occasional noise disturbance, overall this would not be significant enough to justify attributing any significant level of harm to future occupiers. As such, owing to all of the above, it is considered that the internal and external amenity would be acceptable for future occupiers.

In terms of layout, Plot 1 would be located at the top of the site and would address the road frontage, with parking in front of the proposed dwelling. Plot 1 would also be stepped back so that it did not form an overly prominent

feature in the street scene and detract from the nearby listed building. Plots 2 and 3 would be perpendicular to Plot 1, and face southwards towards the approved Watering Farm site. Plot 3's side garden would be located within the flood plain, however the house itself would be located outside of the flood plain.

In terms of the access road, this will largely remain unaltered in its current configuration. Due to the narrowness of the site, all plots would be close to the north and south boundaries of the site. Plot 1 would be located approx. 1m from the northern boundary, but the chimney stack would only be approx. 0.5m from this boundary. Similarly, Plot 2 would be approx. 5m from the rear boundary and Plot 3 would be 5.5m. Along this northern boundary, there are a number of trees which are either within the site, or just outside of the site. The proposed site plan indicates those trees that are to be retained, however does not show some of the lesser quality trees which would have to be removed to facilitate the development. This is indicated in the submitted Arboricultural report.

The trees which are to be retained, especially for Plots 2 and 3, would be in relatively close proximity to the rear elevations of these properties. If development were to go ahead, due to this close proximity these trees may be removed by future residents. Even those trees outside of the red line site area could be pressured into being amended/removed in future. Beyond the northern boundary is an open agricultural field, which also has a PROW running through it. Therefore the existing treeline on this northern side provides a natural screen from views across the PROW towards the village. It is Officers opinion that this screen should be protected, and those views across the countryside screened to the residential development.

Officers therefore suggested to the developer that a management strip of 2m be included, to take the trees / hedging outside of private ownership. They would then become part of a management company which would secure their long term protection. This suggestion was raised later on in the application discussions, but was not taken forward by the developer. As such, it is considered as proposed, the development has the potential to introduce a residential edge with close boarded fence (for security) and the removal of trees along the rear boundary which would have a negative impact on the wider rural character of the area and views from the PROW. This would therefore attribute to harm in the planning balance.

Turning to the southern boundary of the site, most of the existing trees are situated outside of the red line site boundary. The main concern with this southern boundary is the relationship of this proposed development and the development proposed on the site to the south.

Since this application has been submitted, a Reserved Matters submission (Application Reference 20/02128/REM) has been made on the adjacent site to the South (Watering Farm) for 35 dwellings (Validated on 23/12/2020). This Reserved Matters application follows an outline approval (Application Reference 17/02271/OUT) which was granted permission on the 4th January

2019 for 35 dwellings. At the outline stage for application reference 17/02271/OUT, the access to the site was approved as a matter for consideration, as well as an approved Parameter Plan which showed a segment of residential development along the common boundary of the two sites.

Plots 2 and 3 would face south towards the adjacent site with their front elevation being 5.6m and 6.2m respectively from the southern boundary across the access road. The proposed rear elevations of the proposed two-storey dwellings on the reserved matters application would be between 17m and 15.5m from this boundary creating a total separation distance between 21m and 23m from front to back. While this would not be a standard back-to-back relationship, it is considered that the same principles apply for a front-to-back relationship. In this particular case, the concern would be that the private amenity area immediately at the rear of the proposed properties at Watering Farm would be unacceptably compromised by overlooking from the first floor front windows of Plots 2 and 3 of the current application proposal. Evident from the above, the separation distances between the properties would not be 25m and therefore not provide suitable privacy for future occupiers of the Watering Farm site.

As such, as submitted it is considered the proposed development would have a detrimental impact upon the amenity of future occupiers of those dwellings at the Watering Farm site which would be created through application reference 20/02128/REM and consequently the proposal would not create a harmonious layout. Moreover, it is considered that the current proposal would prejudice the delivery of 35 dwellings on the site. Officers flagged these concerns to the developer upon receipt of the Reserved Matters application, and suggested that the scheme be amended to remove the first floor accommodation that would overlook the Watering Farm site. However, the developer declined to change the scheme any further in this case.

With regard to the adjacent reserved matters application, owing to the size of this segment of the site, and the approved access arrangement, it would be very difficult to change anything other than what is shown (back gardens facing towards the site) without unacceptably compromising the layout and the possibility of delivering the consented 35 dwellings on the Watering Farm site which the Council is including within its housing land supply figures.

As such it is considered that the proposed development would have a detrimental impact on the amenity of future occupiers of those dwellings with outline consent on the adjacent Watering Farm site. This harm weighs against the proposal in the planning balance.

Impact on Neighbour Amenity

A core principle of the National Planning Policy Framework is that development should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2

Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.

Other than those properties on the adjacent site to be created through application references 17/02271/OUT and 20/02128/REM (as discussed above), the proposed development due to its size, scale and location would not have a detrimental impact on any other existing neighbouring properties by virtue of overlooking, overshadowing or overbearing.

Highway Issues

The access is existing at the site, is not proposed to be amended and would also continue to serve the existing business at the rear of the site. Essex Highways originally queried the suitability of intensifying the access in terms of visibility splays. It has since been confirmed that visibility was able to be achieved at 2.4m by 43m in each direction. This is appropriate for a 30mph road. As such, Essex Highways raised no objections with the proposals and accordingly Officers are satisfied that there would not be any access issues arising from the development.

In terms of parking, each unit would be provided with an integral garage and a further 2 conveniently and appropriately located off-street parking spaces. Thus meeting adopted parking standards.

Landscape and Ecology

Policy CS8 of the Core Strategy is concerned with the protection and enhancement of the Natural Environment and Biodiversity. The policy states that all development proposals should ensure the protection and enhancement of the natural environment, habitats and biodiversity of the District. It goes on to state that 'development must have regard to the character of the landscape and its sensitivity to change'.

Policy RLP84 of the Adopted Local Plan states that planning permission will not be granted for development which would have an adverse impact on badgers, or species protected under various UK and European legislation, or on the objectives and proposals in National or County Biodiversity Action Plans as amended. Where development is proposed that may have an impact on these species, the District Council will require the applicant to carry out a full ecological assessment. This is echoed by Policy LPP68 of the Section 2 Plan.

In terms of arboricultural impacts, these are discussed in the design section above for the northern aspect of the site. In regards to the southern trees/hedgerow, the existing tarmac road would be removed and widened in close proximity or within the root protection areas of this vegetation. If Officers were minded to approve, then a Construction Method Statement and Tree Protection details would be required to make sure that the long term of the vegetation was not compromised.

In terms of ecology, the Ecological Officer had no objection subject to securing conditions if the application was approved. As such, from an ecological perspective, it is considered the proposal is acceptable.

Flooding and SUDS

The application is not a major application or above 1ha, as such Essex SUDS do not provide comments. This is because usually the overall built area is small and the increase in surface water run off low. However, part of the site is located within Flood Zones 2 and 3 respectively. An initial flood risk assessment was provided at the site, to which the Environment Agency raised some concerns. A revised flood risk assessment was submitted, however at the time of writing, no further response had been received from the Environment Agency. Should no response be received prior to Committee, then Officers will put forward an additional reason for refusal to members, which if refused, could be addressed if the application is appealed.

Contamination

Policy RLP64 of the Adopted Local Plan states that a development on or near a site where contamination may exist, should provide a thorough investigation, so as to establish the nature and extent of the contamination, and then identify works to mitigate any contamination found where appropriate.

If permission was approved, it would be appropriate to include a condition to ensure that any contamination found during construction is adequately dealt with in compliance with the aforementioned policies. The Environmental Health Officer had no objection to the application with the Phase 1 Desktop study provided.

Habitat Regulations Assessment (HRA)

The Ecology Officer identifies that the site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site. As such, the developer is required to pay a financial contribution towards offsite visitor management measures for the Blackwater Estuary SPA & Ramsar site, (£125.58 per dwelling). In this case, the submission of this application pre-dated Officers requiring HRA contributions for schemes of 99 units or less. As no HRA payment has been made, a second reason for refusal is recommended.

PLANNING BALANCE AND CONCLUSION

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.

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.

As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

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

In this case, the proposal is in conflict with Policy RLP2 of the Adopted Development Plan and Policy CS5 of the Core Strategy. Section 38(6) of the Planning and Compulsory Purchase Act 2004, directs that, *“if regard is to be had to the development plan for the purpose of any determination to be made, the determination must be made in accordance with the plan unless material considerations indicate otherwise”*.

Paragraph 11 of the NPPF introduces a presumption in favour of sustainable development. As the Council is currently unable to demonstrate a 5 year housing land supply the tilted balance is engaged.

In this case, the development would provide three dwellings towards the housing supply which is a benefit. However, if the current application remains as proposed, the number of units on the adjacent Watering Farm site would need to be reduced in order to ensure an acceptable relationship between the two developments which would therefore reduce or remove the benefit that can be attributed to the three new dwellings in this case.

Jobs would be created jobs during construction. Future occupiers would also contribute to the vitality of the village. The site is also in an accessible location, with a genuine alternative to the private motorcar. These benefits would be consistent with the economic and social aims of sustainable development.

The development would however result in less than substantial harm to the setting of a Grade II listed building. It would also introduce development which would give rise to harmful overlooking to future residents on the adjacent Watering Farm site. Finally, the development would not provide sufficient protection for the strong established hedge/tree line at the rear of the site, with the potential for future loss of trees to facilitate the development. If removed, the development would introduce a harsh edge into an otherwise pleasant rural edge of the settlement. As such, these aspects constitute significant environmental harms.

When considering the planning balance and having regard to the above, the conflict with the Development Plan, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the adverse impacts of granting permission in this case would significantly and demonstrably outweigh the benefits. Consequently it is recommended that planning permission is refused for the proposed development.

RECOMMENDATION

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

- 1 Due to the proposed first floor windows and proximity to the shared boundary, the proposed development would have a detrimental impact on the amenity of future occupiers on the adjacent Watering Farm site and could prejudice the delivery of housing on this development. In addition, the proposed development would not be able to secure the long term retention of important trees and hedging at the site which if removed, would result in a harsh residential edge being introduced which would have a detrimental impact on views from the PROW and across the wider countryside. The development would also give rise to less than substantial harm to the setting of the Listed Building. When considering the planning balance, the conflict with the Development Plan, and having regard to the requirements of the NPPF as a whole, the adverse impacts

of granting permission in this case would significantly and demonstrably outweigh the benefits.

The development would therefore be contrary to the National Planning Policy Framework, Policies RLP2, RLP3, RLP80, RLP81, RLP90 and RLP100 of the Adopted Local Plan, Policies CS5 and CS7 of the Core Strategy, Policies SP1 and SP3 of the Shared Strategic Section 1 Plan (2021) and Policies LPP1, LPP55, LPP60, LPP69 and LPP71 of the Draft Section 2 Plan.

- 2 Policy RLP84 of the Adopted Local Plan states that the Council will where necessary impose planning obligations to ensure that new development will not have an adverse effect on protected species by reducing disturbance of habitats is managed and reduced to a minimum. Braintree District Council has adopted the Essex Recreation Avoidance Mitigation Strategy Supplementary Planning Document (SPD) which sets out the process and mechanisms for securing the delivery of management and mitigation at the Protected Sites. This requirement would need to be secured through a S106 Agreement. In the absence of an obligation the proposal would conflict with the development plan as regards:

- Financial contribution of £125.58 per dwelling to fund off-site Visitor Management at the Blackwater Special Protection Area and Ramsar site & Essex Estuaries Special Protection Area.

As such the proposal is contrary to the above policy and adopted SPD and the Council would not be able to confirm that the development would not have an adverse impact upon the protected sites in accordance with the Habitats Regulations.

SUBMITTED PLANS

Site Plan

Plan Ref: 02

Proposed Elevations and Floor Plans

Plan Ref: 03

Proposed Elevations and Floor Plans

Plan Ref: 04

CHRISTOPHER PAGGI

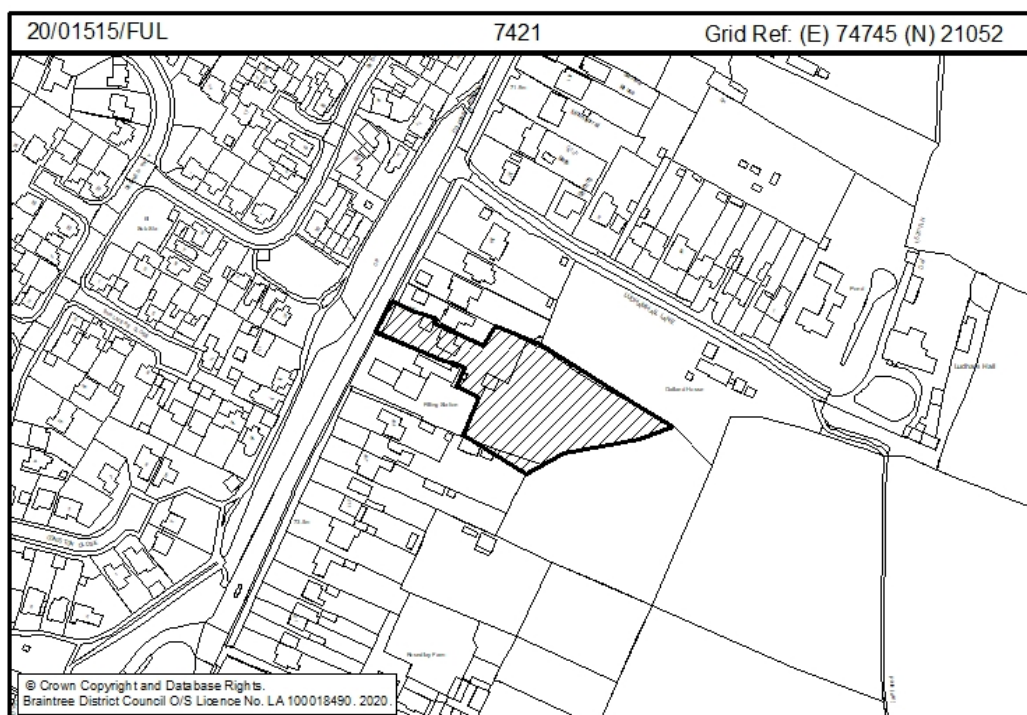
PLANNING DEVELOPMENT MANAGER

PART A

AGENDA ITEM NUMBER 5b

APPLICATION NO: 20/01515/FUL DATE: 23.09.20
VALID:
APPLICANT: Regent Square Ltd
Mr Jon Nash, 103 London Road, CM7 2LF
AGENT: Ashby Design Ltd
Miss Cecile Poupard, 13 Arm and Sword Lane, Hatfield,
AL9 5EH
DESCRIPTION: Erection of 2 x 2, 3 x 3, and 5 x 4 bedroom (10 units) two-
storey dwelling houses, together with new vehicular and
pedestrian access, associated car parking and
landscaping.
LOCATION: Land Rear Of, 197 London Road, Black Notley, Essex

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QGHPOTBF00A00>

SITE HISTORY

20/00008/REF	Erection of 12 No. dwellings together with new vehicular and pedestrian access, associated car parking and landscaping.	Appeal Dismissed	15.06.20
19/01575/FUL	Erection of 12 No. dwellings together with new vehicular and pedestrian access, associated car parking and landscaping.	Refused	17.01.20
20/00515/FUL	Erection of 3 x 2 bed, 2 x 3 bed and 7 x 4 bed two-storey semi-detached dwellinghouses (12 units), together with new vehicular and pedestrian access, associated car parking and landscaping.	Withdrawn	16.07.20

POLICY CONSIDERATIONS

On the 22nd February 2021, Braintree District Council adopted the Shared Strategic Section 1 Local Plan.

On adoption, the policies in the Shared Strategic Section 1 Local Plan superseded Policies CS1, CS4, CS9 and CS11 of the Core Strategy (2011).

The Council's Development Plan therefore consists of the Braintree District Local Plan Review (2005) ("the Adopted Local Plan"), the policies of the Core Strategy (2011) (the Core Strategy) which are not superseded, the Shared Strategic Section 1 Local Plan (2021) ("the Section 1 Plan"), and any Adopted Neighbourhood Plan.

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 Plan") and the weight that can be given is related to:

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

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

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

Accordingly the Council affords some weight to the Section 2 Plan.

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP10	Residential Density
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP69	Sustainable Urban Drainage
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP90	Layout and Design of Development

Braintree District Local Development Framework Core Strategy 2011

CS2	Affordable Housing
CS10	Provision for Open Space, Sport and Recreation

Braintree District Shared Strategic Section 1 Local Plan (2021) & Draft Section 2 Local Plan (2017)

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
SP3	Meeting Housing Needs
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP17	Housing Provision and Delivery
LPP18	Strategic Growth Location - Land East of Great Notley, south of Braintree
LPP33	Affordable Housing
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment

LPP55	Layout and Design of Development
LPP69	Tree Protection
LPP71	Landscape Character and Features
LPP79	Surface Water Management Plan
LPP81	External Lighting

Neighbourhood Plan

At the time of writing, no plan has been formally submitted for consideration for either Great Notley or Black Notley. As such, no weight can be attributed to these documents at this time.

Other Material Considerations

Essex Design Guide

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

Essex Parking Standards/Urban Space Supplement

Village Design Statement

Open Space SPD

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

DESCRIPTION OF THE SITE AND SITE CONTEXT

The application site comprises land to the rear of 197 London Road. Although the site is opposite Great Notley, it is located within the Parish boundary of Black Notley.

The development site is located partially within and partially outside of the development boundary; the access, existing dwelling (No.197) and its immediate domestic curtilage are within the boundary, while the remaining land at the rear (the majority of the site) is located outside of the adopted Development Boundary.

The site is also adjacent to a filling station & car wash to the south, while being adjacent to other linear development on the east side of London Road. Further north, Ludham Hall Lane runs parallel to the northern boundary of the site. This serves as an access to properties along this road but also as a Public Right of Way.

NOTATION

The application site is located outside any development boundary or village envelope as defined in the Adopted Local Plan. However, the site, in conjunction with the filling station were allocated for residential development within the Section 2 Plan (BLAN 633). The site also backs onto a wider strategic allocation (BLAN 114) which has been allocated for a residential led mixed use development of up to 2,000 new homes in the Section 2 Plan.

PROPOSAL

The application proposes to erect 10 dwellings at the site, comprising 2 two bed, 3 three bed and 5 four bedroom properties. The proposal would close up the existing vehicular access that serves No.197 and No.195 London Road. It would create a new access onto London Road which would be in close proximity to the boundary of the site with the adjacent filling station. No.197 London Road would be retained, therefore the access road would go along the side of the house.

The spine road comprises a type 3 turning head in the middle, then a further smaller access road to access the properties at the rear. This is to provide suitable manoeuvrability but also would result in a mews type character. Eight of the ten houses would be inward facing, while Plots 5 and 6 would be perpendicular and face back along the access road.

In terms of scale, each of the dwellings would be two-storey in height. In terms of appearance, there would be a mixture of house types and styles, with some high quality features such as chimneys.

SUMMARY OF CONSULTATION RESPONSES

BDC Ecology

No objection subject to conditions.

BDC Waste

No objection subject to no liability from any damages (as road unlikely to be adopted) and bin pull distances of 20m or less.

BDC Environmental Health

No objection.

ECC Historic Buildings Consultant

No objection.

ECC SUDS

Require more information. However suggested conditions if Members were minded to approve the application (*see report for explanation*).

ECC Highways

No objection subject to conditions.

ECC Archaeology

No objection subject to conditions.

Anglian Water

No objection.

Essex Fire

No objection providing the site can accommodate a vehicle of 15 tonnes. Also nearest fire hydrant is close enough away.

Natural England

No objection subject to securing HRA.

Essex Police

No apparent concerns.

PARISH / TOWN COUNCIL

Black Notley Parish Council

Black Notley Parish Council objected to the application for the following summarised reasons:

- Beyond adopted development envelope (although acknowledge it has an allocation)
- Garage and car wash could cause neighbour issues
- Crammed development and wouldn't match character of area

REPRESENTATIONS

Two objection letters have been received setting out the following summarised objections:

- Affect views and loss of property value
- Loss of trees

- Loss of habitats
- Ditch and ancient hedge row should be kept
- Increased traffic – dangerous route to school
- Noise during construction
- Impacts on privacy

REPORT

National Planning Policy Framework (NPPF)

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

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

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

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

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

The Development Plan

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

Policy RLP2 of the Adopted Local Plan states that new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside these areas countryside policies will apply. Policy CS5 of the Core Strategy specifies that development outside Town Development Boundaries and Village Envelopes will be strictly controlled to uses appropriate within the countryside in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.

The application in this case seeks planning permission for the erection of 10 new dwellings outside of settlement limits as defined by the Adopted Local Plan. The application would represent a departure from Policies RLP2 of the Adopted Local Plan and CS5 of the Core Strategy, and is therefore considered to be contrary to the Adopted Development Plan as a whole.

However, while a large part of the site is located outside of the development boundary in the Adopted Local Plan, the site, in conjunction with the filling station/car wash, has been allocated for residential development (BLAN 633) in the Section 2 Plan. This is because the filling station/car wash is one of a number that serves Great Notley already in the area; as such there was not a principle objection to its loss. The site is allocated together partially in order to secure a suitable development coming forward.

The application in this case does not propose to develop the entire draft residential allocation of BLAN 633, instead it seeks a more piecemeal approach to develop the main core of the site, with the existing dwelling retained and leaves the associated petrol filling station land in situ. The site also backs onto a wider strategic allocation BLAN 114 which has been allocated for a residential led mixed use development of up to 2,000 new homes. This large allocation is covered by Policy LPP18 in the Section 2 Plan and is to the east of the application site. The development must not therefore be prejudicial to BLAN 633 and BLAN 114. These particulars are explored further in the report.

To summarise, the development would conflict with the Adopted Local Plan and Core Strategy, but would be partly in accordance with the Section 2 Plan.

5 Year Land Supply

The Council publishes a 5 year housing land trajectory as of 31st March each year, the most recent position therefore is that of 31st March 2020. Within this trajectory the Council considered that it had a 4.52 year supply of housing, based on a 20% buffer. However there have been a number of factors which

the Council must now take into account since this trajectory was published which have an impact on the Council's 5 year housing land supply position.

At its full Council on the 22nd February 2021 Braintree District Council approved the adoption of the Section 1 Plan. On its adoption the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013 - 2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.

The latest Housing Delivery Test (HDT) results were published in January 2021. Prior to the publication of this year's results, the Council was in the category of having to provide a 20% buffer to its Housing Land Supply. The new results (which include an allowance for the impact of the current pandemic) confirm that the Council no longer needs to apply a 20% buffer and can revert to the usual 5% buffer. This applies from the day of the publication of the results.

The housing land supply position has been considered in detail by several Planning Inspectors at recent public inquiries, most notably and in detail through a decision on a site in Rayne. In the conclusion to that appeal the Inspector notes that: *'In my judgement, based on the specific evidence before the Inquiry, the 4.52 years supply claimed by the Council appears to me to be optimistic and, although I do not consider it to be as low as the 3.72 years claimed by the appellants, it is somewhere between the two figures'*. Whilst the Inspector therefore did not come to a firm conclusion on which the Council can base its current position, it is noted that she considered it somewhere between the two figures proposed. That decision was made at a time before the adoption of the Section 1 Plan (and thus calculations of housing need were based on the Standard Method), and before the publication of the latest HDT results.

Nonetheless, focusing on her conclusions on the Council's claimed supply, the Council accepts the Inspector's finding within that inquiry in respect of four of the sites which the Council had previously included within its trajectory. The expected supply from those four sites should be removed from the claimed supply, which has the effect of removing 516 homes from the supply.

Given all of the evidence before it – including the use of the new housing requirement from the Section 1 Plan, the use of a 5% buffer, and the adjustment to supply, the Council considers that the current 5 year Housing Land Supply for the District is 3.73 years.

It should be noted, however, that it is approaching the end of the monitoring year and the Council will undertake a full review of the housing land supply position as at the 31st March 2021, which it will publish as soon as it is complete.

As the Council cannot demonstrate the required five Year Housing Land Supply the 'tilted balance' of Paragraph 11d of the NPPF is engaged. It also

means that the most important Development Plan policies for determining this application, those relevant to the provision of housing, are out of date.

History

A planning application (Application Reference 19/01575/FUL) was previously submitted at this site for 12 dwellings in a different configuration, with the retention of the existing house (No.197). This application was refused planning permission and dismissed at appeal. Officers concerns were as follows:

- Negative impacts on character
- Poor design
- Not provide suitable amenity for existing or future occupiers
- Implications on strategic allocation
- Insufficient information in respect to noise
- Insufficient information in respect to surface water drainage
- No affordable housing contribution secured

The application was dismissed on appeal, but the Inspector did not agree with all of the issues that Officers raised above. The Inspector did however raise the following concerns in dismissing the appeal:

- Little room for meaningful landscape in a tight configuration
- Height of houses too tall to create a mews like character (some 2" storey)
- Pergolas and flying links not good design
- Poor quality of amenity for future occupiers by virtue of overlooking and existing landscaping
- Unacceptable impact on existing occupiers

Overall, the inspector considered that the development would be cramped and jarring, harming the character of the area and also the amenity of existing and future occupiers. The appeal was therefore dismissed. A copy of the appeal decision is appended to this report.

There were however some elements where the Inspector disagreed with the Council in terms of impacts. These included the retention of the existing dwelling (on balance), development over sewer easements, information regarding surface water drainage, and the potential noise impact from the petrol station. The inspector also did not consider that developing the site without the petrol station would be prejudicial to the residential allocation. Finally, the Inspector concluded that the petrol station could not be included in the affordable housing requirement.

This application therefore seeks to overcome the issues raised by the Inspector in the decision. This is explored within the report below.

Location and Access to Services and Facilities

The NPPF encourages homes with accessible services which limit the need to travel, especially by car, although it is acknowledged that the NPPF also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas (Paragraph 103). Paragraph 78 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

Policy CS7 of the Core Strategy states that future development will be provided in accessible locations to reduce the need to travel. The NPPF (2019) encourages homes with accessible services which limit the need to travel, especially by car, although it is acknowledged that the NPPF also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas (Paragraph 103).

Although the site is partly located in the Countryside, it is very close to Great Notley, which forms part of Braintree as a 'Main Town' in the Settlement Hierarchy found in the Core Strategy. The main towns are the locations which are most sustainable in the district and have good access to day-to-day services and facilities. It is therefore considered that the site is in an accessible location which is a benefit that weights in favour of the application.

Design, Appearance, Layout & Noise

Paragraph 124 of the National Planning Policy Framework (NPPF) states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. It also states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127 of the NPPF states, amongst other things, that developments should function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Furthermore, the Governments 'National Design Guide 2019' places increased importance on the importance of good design, amenity, wellbeing and sense of place for all developments.

In addition to this, Policy RLP90 of the Adopted Local Plan requires designs to recognise and reflect local distinctiveness in terms of scale, density, height and massing of buildings, and be sensitive to the need to conserve local features of architectural and historic importance, and also to ensure development affecting the public realm shall be of a high standard of design and materials, and use appropriate landscaping. Policy LPP55 of the Section 2 Plan seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.

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

In order to assess whether the proposal is now acceptable, it is important to compare the current application to the dismissed appeal application in light of the Inspectors concerns. In terms of clear changes, there has been a reduction of two units at the site, from 12 dwellings to 10 dwellings.

Focusing on scale, the dismissed appeal proposed a mixture of two storey and two and a half storey dwellings. The Inspector commented that two and a half storey development would not create a mews type character (in the way proposed), and that flying links were not a good design solution for this site. In this case, the current application removes any reference to two and a half storey dwellings, and focuses solely on two storey dwellings. Both applications propose a mixture of house types, however the appeal scheme proposed a slightly higher proportion of four bedroom properties (2 two bed, 2 three bed and 8 four bed) compared to the current application (2 two bed, 3 three bed and 5 four bed).

The current application would therefore be notably be less intrusive in terms of its height and prominence comparatively to the dismissed appeal. In addition, pergolas and flying links between properties have now been removed. A condition could be proposed to remove Permitted Development Rights for dormer windows in recognition of the potential impact and the Inspectors concerns. As such, it is considered that the current proposal addresses these two issues raised by the Inspector. However, due to the change to the proportion of larger units now proposed, even though there is a reduction in the number of units, the development would still be utilising most of the site for housing in terms of footprint. This is discussed further below.

Focusing on layout, the dismissed appeal proposed to retain No.197 London Road and create an internal spine road to serve the 12 proposed dwellings. This spine road would end with a type three turning head. Plots 1-5 and 9-12 would have been inward facing, while Plots 6-8 would have been perpendicular and faced back along the proposed access road. The layout would have maximised the site, so that there was limited opportunity for any meaningful landscaping. Plot 6 in particular was situated very close to the site boundary.

The Inspector agreed with Officers on this issue, commenting that there would be little room for meaningful landscape in such a tight configuration. The Inspector also considered views across from Ludham Hall Lane as being important, as this is a PROW and the site boundaries are mostly open between these areas, allowing for a good degree of visibility. While the land

around the site is allocated for development in the Section 2 Plan (BLAN 114), the Inspector considered that the site needed to respond to the existing context, as opposed to any possible future context. As such, because of the height of the development, coupled with the tight configuration and lack of landscaping to soften the impacts, the Inspector considered that appeal scheme would have had a detrimental impact on the character of the area.

The current application layout has been the subject of much negotiation with the developer in light of the Inspector's comments. While there are some larger house types, the scheme does allow for more landscaping to be included within the site. In particular, Plot 5 has been pulled away from the site boundary to allow for the planting of a strong hedge, with a maintenance strip behind, so that it can be managed by a management company. This will therefore allow the long term retention and management of the hedge, which will over time greatly assist in softening the impact of development in views across from Ludham Hall Lane. It will also be important that boundary treatments are appropriate for Plots 3 and 4 in order to provide a softer edge. This could be secured via condition.

In terms of layout particulars more generally, the current application also takes a different approach to that of the dismissed appeal, in that the type 3 turning head ends in the middle of the site, and a smaller access road is created to serve the remaining 6 properties. The aim is to better reinforce a mews like character and provide a stronger identity. Plots 1-7 would still be inward facing, however Plot 6 would provide a natural terminating feature along the vista of the access road.

One of the key issues was also Plot 5 possibly overlooking Plot 4, however with the introduction of the management strip, Plot 5 has been pushed back so that it would not be able to easily overlook Plot 4, but still have a sufficient outlook itself. Plot 4 would have a chimney stack to add visual interest and break up the mass of the side of the property. Similarly, other more exposed gable ends would also comprise chimney stacks and some fenestration to assist in breaking up massing and adding interest.

In terms of other notable layout changes, the pergolas previously proposed have now been removed over the spaces at the front of the site, while any carports have also been removed. Single garages remain for a number of the properties but these would be attached to the side of the dwellings. Taking into account all of the above, it is considered that the development would now provide a much stronger mews character, while also providing space for meaningful landscaping.

The Parish Council commented that the proposed layout still appears cramped and should instead reflect the linear development on London Road. However Officers disagree with this; this site does not have a relationship with London Road due to its backland location; developing it in a similar way would not be appropriate because of this. The development should instead be focused in a more compact form typical of such back land locations, and which is commonly found at the rear of London Road in this area.

Furthermore, the site isn't big enough to accommodate 10 dwellings and adhere to the principles to which the properties on London Road were built to with larger plots likely making it undeliverable and unviable. As such, Officers respectfully disagree with the Parish Council in this regard.

One of the other issues linked with layout was the impact on external amenity for existing and future occupiers. The dismissed appeal proposed Plot 1 to be much closer to the rear of No.197 London Road and No.195 London Road. Officers considered that owing to the location of Plot 1, that the amenity of No.197 would be affected by a large imposing mass in close proximity to the rear of the dwelling. Officers also considered that No.195 London Road would be able to overlook directly into the garden of Plot 1 at a very short distance, limiting privacy for future occupiers. The other issue was with Plot 10; a very large existing tree was behind it, due to the proximity of Plot 10 the tree would have had a detrimental impact on outlook and light for future occupiers. The Inspector agreed with these concerns and this formed part of the reason that the appeal was dismissed.

The current application attempts to resolve these issues. Firstly, Plot 1 is now located further away from the rear boundary of No.197, which would greatly reduce any overbearing impacts of the previous scheme. Similarly, Plot 1 now proposes a garage which would project beyond the rear building line to provide protection to the most sensitive areas of amenity for future occupiers. A landscape buffer is also shown along the boundary with No.195 London Road, although this would be maintained by the future occupier. Plot 8 as it is now proposed (formerly Plot 10) would comprise a larger garden and be sited further away from the tree at the rear. The combination of both aspects, together with a southern facing facade, would also enable future occupiers of Plot 8 to access suitable amenity at the rear of their plot. Overall, it is considered that the layout changes as described above have enabled the above identified amenity issues to be overcome.

Officers considered that to create a better entrance to the development, that No.197 should be removed. The Inspector commented that from a street scene perspective, on balance the existing dwelling should stay. Therefore on the current layout this dwelling is also retained. However, with the retention of No.197 there is potential for noise and disturbance, from passing vehicles utilising the new road, on existing occupiers.

From a noise perspective, Officers considered that both the internal and external amenity of No.197 would be detrimentally affected by its retention and the access road. The Inspector considered that the internal amenity was acceptable, however was not satisfied that the external amenity would be able to be protected:

“15...However, the noise from vehicles passing and repassing the garden of No. 197 would be very apparent to the occupants. This could be attenuated to an extent if a solid boundary, such as a wall, was provided in combination with additional landscaping to provide a defensible area. However, I have seen nothing of substance

demonstrating the impact could be reduced to an acceptable level. Thus, based on the evidence before me, I am not satisfied the proposal would have an acceptable impact upon the living conditions of No. 197 in respect of noise and disturbance. That said, a residential redevelopment at the petrol station could proceed without a harmful impact on future living conditions because there would be space to create a defensible buffer."

On the dismissed appeal scheme, the boundary around No.197 was shown only as a hedge. On the current application submission, a 2m high brick wall is shown along the entirety of the rear boundary. The noise report has also been updated to include an assessment of the likely impacts of passing vehicles on the external amenity of No.197. The noise report concludes that there would be some impact on the amenity of No.197, however this impact would be greatly reduced by the introduction of the 2m brick wall which will assist in reducing much of the noise transmission to an acceptable level. A granite sett raised table is also proposed in this area to reduce vehicle speeds.

The Councils Environmental Health Officer reviewed the noise report and raised no objection in regards to the impact on No.197. Similarly, the Environmental Health Officer accepted the conclusions reached by the Inspector in regards to the filling station. Owing to the tightness of the access configuration, there would not be any space immediately adjacent to the access road to be able to incorporate any landscape buffer without reducing the size of the garden of No.197. Therefore, while measures have been put in place, the Inspectors comments above are not able to be met in full. There is also likely to be some pollution type impacts from passing vehicles. However, owing to the above factors, it is considered that while the external amenity of No.197 would be adversely affected by the proposed development, any impact would be much reduced comparatively to the previous scheme. This harm must however still be weighed in the planning balance. A condition could be imposed to secure the various recommended boundary treatments in the noise reports.

In terms of more general layout particulars, the development would provide three visitor spaces; two at the entrance of the site and one at the rear. Each dwelling would be provided with two parking spaces, either two tandem parking spaces or a parking space and a single garage measuring 7m by 3m (to constitute a parking space in the parking standards). Each garden would be in accordance with the standards set out in the Essex Design Guide, while the quality of internal amenity would be good for each dwelling with sufficient outlook and internal accommodation above the minimum sizes in the Nationally Described Space Standards. Refuse operatives would also not be required to travel more than 20m to collect rubbish from the type 3 turning head. In addition, there would be sufficient manoeuvrability for the waste vehicle to turn in the site. This has been confirmed by the refuse team.

In terms of appearance, the flying pergolas have been removed to satisfy the Inspectors comments. The character that has now been created would be

more aligned to what would be expected in a mews type development, with a mixture of colours and materials from brick, render and weatherboarding. Stone cills feature on non-boarded properties and each dwelling would either have a chimney stack or a chimney projection at the top to add visual interest. Some dwellings would also have exposed rafter feet. Overall, it is considered that the appearance of the development is acceptable.

Summarising all of the above, it is considered that the majority of the Inspectors concerns have now been overcome, and that the development would be acceptable from a character, layout, amenity, scale and design perspective. The only issue which has not been resolved fully is in respect to the impact on the amenity of No.197 from passing vehicles, albeit this impact has been largely reduced. These aspects form part of the planning balance at the end of the report.

Impact on Neighbour Amenity

A core principle of the National Planning Policy Framework is that development should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.

No detrimental neighbouring impacts were identified as part of the dismissed appeal. This is because the site primarily adjoins green spaces whether that be paddocks or ancillary land. Most residential properties are a considerable distance away. The current application is similar in terms of its relationship to plot boundaries. As such the conclusions reached in dismissed appeal are considered to be the same, that neighbouring amenity would not be detrimentally affected by the proposal in this case.

Concerns have been raised in respect to loss of views and loss of property value, however these are not planning considerations.

Concerns have also been raised about disruption during construction. As these disturbances are temporary in nature, there would only be a time limited harm to existing occupiers. This harm can be mitigated by way of conditions such as limiting construction hours etc. As such, disruption during construction would not be a harm that could be reasonably weighed in the planning balance in this case.

Highway Issues

The proposal would close up the existing vehicular access that serves No.197 and No.195 London Road. It would create a new access onto London Road which would be in close proximity to the boundary of the site with the adjacent filling station. While concerns were raised about increased traffic and the suitability of the junction by residents and the Parish Council, Essex Highways have considered the proposal and raised no objections.

Furthermore, access was not considered to be an issue at the time of the dismissed appeal. The access arrangements are proposed to be the same on this application, which also proposes a smaller number of dwellings. As such, it is considered that from a highways perspective, that the development would not have a detrimental impact on vehicular or pedestrian safety, subject to the imposition of suitable conditions.

Arboriculture and Ecology

Policy CS8 of the Core Strategy is concerned with the protection and enhancement of the Natural Environment and Biodiversity. The policy states that all development proposals should ensure the protection and enhancement of the natural environment, habitats and biodiversity of the District. It goes on to state that 'development must have regard to the character of the landscape and its sensitivity to change'.

Policy RLP84 of the Adopted Local Plan states that planning permission will not be granted for development which would have an adverse impact on badgers, or species protected under various UK and European legislation, or on the objectives and proposals in National or County Biodiversity Action Plans as amended. Where development is proposed that may have an impact on these species, the District Council will require the applicant to carry out a full ecological assessment. This is echoed by Policy LPP68 of the Section 2 Plan.

Concerns have been raised by local residents about the loss of trees and ecological habitat at the site. Firstly in terms of trees, the application is supported by an arboricultural impact assessment. This shows that all of the notable existing trees and hedges on the site will be retained and protected. The site is generally devoid of any trees in the centre of the site. A condition could be imposed to secure the recommendations contained within the arboricultural report. As such, from an arboricultural perspective, it is considered that the proposal is acceptable.

From an ecological perspective, an Ecological Appraisal survey was also submitted with the application. The ecology report has confirmed that there is negligible bat roost potential and no evidence of bats in the building (garage) to be demolished. Further, the mature trees on site have not been inspected for bat roost potential but are scheduled to be retained. As such, the Ecological Officer had no objections subject to the imposition of a number of conditions. It is considered that these particulars are also acceptable.

Flooding and Suds

Policy RLP69 of the Adopted Local Plan and Policy LPP78 of the Section 2 Plan states that where appropriate, the District Council will require developers to use Sustainable Drainage techniques such as porous paving surfaces.

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

The site is in Flood Zone 1, which has the lowest chance of flooding. For the dismissed appeal, Officers included an insufficient information reason for refusal in respect to a lack of a SUDS strategy at the site. This was at the request of Essex County Council SUDS. However, the Inspector considered that these particulars could reasonably be dealt with by condition, rather than requiring the information up front.

The SUDS team have again requested that further information in regards to surface water drainage is provided up front. However, owing to the Inspector's decision on the dismissed appeal, it would be unreasonable of the Council to refuse the application on this basis. Therefore, in this case, it is considered that suitably worded conditions provided by the SUDS team would be sufficient in this case to satisfy these requirements. As such, while SUDS have put a holding objection on the application, Officers consider that this can be resolved at a later stage for this application.

Contamination

Policy RLP64 of the Adopted Local Plan states that a development on or near a site where contamination may exist, should provide a thorough investigation, so as to establish the nature and extent of the contamination, and then identify works to mitigate any contamination found where appropriate.

A phase 1 contamination report accompanied the previous application but does not seem to have been included as part of this current application. For the dismissed application, a condition was recommended at the appeal stage for a phase 2 contamination report to be submitted. It is considered that this condition would still be necessary if the development is granted planning permission. Subject to further investigation, it is considered that these particulars are acceptable.

Archaeology

Policy RLP105 of the Adopted Local Plan states that where important archaeological deposits are thought to be at risk from a proposed development the developer will be required to arrange for an archaeological evaluation to be undertaken prior to the planning decision being made. The evaluation will assess the character, importance and extent of the archaeological deposits and will allow an informed and reasonable decision to be made on the planning application.

In this case an archaeological condition has been recommended, in line with comments from the Archaeological Officer.

Habitat Regulations Assessment (HRA)

The Ecology Officer identifies that the site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site. As such, the developer is required to pay a financial contribution towards offsite visitor management measures for the Blackwater Estuary SPA & Ramsar site, (£125.58 per dwelling). In this case, the developer has sought to agree these particulars by way of a S106 agreement. As such, it is considered the development would not have an unacceptable impact on the Blackwater Estuary SPA/Ramsar site, subject to the S106 being completed.

PLANNING OBLIGATIONS

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

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

Open Space in Braintree District is calculated in accordance with the standards set out in the Open Spaces SPD and the Core Strategy. Owing to the smaller scale of the development, it is considered that the contribution amount would not be split into the four areas (amenity greenspace, play space, allotments and formal sport), instead be paid as one lump contribution to an identified project in the most up to date Open Spaces Action Plan. A number of projects exist, Officers are currently exploring which project may be most suitable to receive the contribution (£23,199.34). This contribution has been agreed by the developer.

A management company would also be appointed to manage the on-site open space, and the hedge area as shown on the proposed site plan. This obligation has been agreed by the developer.

An Indemnity will also be entered into to absolve the Council's refuse collection team of any damages to the private road for waste collection. This obligation has been agreed by the developer.

Policy CS2 of the Core Strategy requires the provision of affordable housing where certain targets/thresholds are met. In respect of this site, it is considered that although the site is located within the Parish of Black Notley,

the site is adjacent to the Parish of Great Notley where the target of 30% affordable housing is applicable. In addition, the site is located between Great Notley and the strategic growth location at Land East of Great Notley, South of Braintree (BLAN 114). As such, it is considered that a target of 30% affordable housing should be applied in this case.

The NPPF definition of major development includes schemes of 10 or more units. In this regard, Paragraph 63 of the NPPF states that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. As such, the site generates a requirement for affordable housing provision in accordance with both Adopted National and Local policy.

The issue of affordable housing has been an area of some debate over the course of the current and former applications at the site. Notwithstanding the above, in respect of the dismissed appeal proposal, Officers sought to secure an affordable housing contribution on the basis that the development should provide affordable housing given that the site was part of draft allocated site (BLAN 633) which included the petrol station land. With this land included, it would have taken the site up to above 0.5ha, which is eligible for an Affordable Housing contribution/provision. Officers argued that if the petrol station land came forward at a later date, then it would not be reasonable to request that a different developer pay the full contribution of affordable housing at that time. Within the delegated report, the affordable housing threshold was incorrectly specified as 15 dwellings, and therefore the focus of the appeal was on the issue of subdivision.

The Inspector considered the subdivision issue and determined that the Council could not reasonably require affordable housing on the basis of a combined approach with the petrol station site:

23. The Council's emerging draft Local Plan currently includes the appeal site as part of a larger site allocation, which also includes the adjoining petrol station. The appellant does not have control over the petrol station, which appears to have recently changed hands and may be a viable going concern with an existing use value that exceeds the redevelopment value as a residential site. The latter points are matters that would need to be tested through the examination of the emerging LP and therefore I do not afford the draft policy relating to allocation BLAN633 anything more than very limited weight.

24. Therefore, as things currently stand there is no extant development plan policy allocating the appeal site and petrol station for residential development and requiring that any development comes forward in a comprehensive way. As such, the proposal is not seeking to artificially subdivide an allocated site and thus circumvent the affordable housing threshold in Policy CS2 of the CS. Therefore, the absence of affordable housing is not contrary to the development plan and material considerations, such as the emerging local plan, do not indicate a

decision on this matter should be made otherwise than in accordance with the current extant development plan.

The Inspector's rationale for this decision is clearly explained above. It is however the last sentence of Paragraph 24 which is of interest, indicating that a decision should be made in accordance with the extant Development Plan. At Paragraph 25 of the appeal decision, the Inspector concludes that no affordable housing contribution was required, however Officers consider that this was only in response to the issue of subdivision and did not address the requirement for affordable housing for the application site in isolation.

Officers consider the development is required to provide a contribution to affordable housing in accordance with adopted National and Local policy. Ordinarily the Council would seek to secure affordable housing units within a development. However, owing to the scale of this proposal, a financial contribution would on this occasion would be more appropriate than on-site provision and has been requested by the Council's Housing Enabling Officer. As such, in accordance with adopted National and Local Policy, Officers are requiring a 30% affordable housing contribution which would equate to £100,625 per dwelling, as advised by the Council's Affordable Housing Officer. This would therefore comprise a total contribution of £301,875.

At the time of writing, the developer has advised that they are unwilling to agree to the affordable housing requirement. Consequently, the proposal is contrary to adopted National and Local policy in this regard.

PLANNING BALANCE AND CONCLUSION

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.

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.

As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

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

In this case, the proposal is in conflict with Policy RLP2 of the Adopted Development Plan and Policy CS5 of the Core Strategy. Section 38(6) of the Planning and Compulsory Purchase Act 2004, directs that, *"if regard is to be had to the development plan for the purpose of any determination to be made, the determination must be made in accordance with the plan unless material considerations indicate otherwise"*.

It is considered that other material considerations do exist in this case. They include a partial compliance with the Section 2 Plan, although limited weight is afforded to this compliance given the status and stage of preparation of the Section 2 Plan in this instance. Other important material considerations also include Paragraph 11 of the NPPF which introduces a presumption in favour of sustainable development and engages the tilted balance in this instance as the Council is currently unable to demonstrate a 5 year housing land supply.

In this case, there are public benefits which would arise from the development. These include but are not limited to; securing a good design and layout which would address the Inspector's concerns of landscaping, design and character from the dismissed appeal. The development would provide a good standard of internal and external amenity for future occupiers. The site would be in an accessible location where a genuine choice of alternative transport modes exists, therefore limiting the harm which would arise through use of the motor car. The development would also provide 10 dwellings towards the housing land supply shortfall, jobs during construction, contributions to the vitality of the village and an open space contribution.

There would also be limited harms to neighbouring residential properties, limited highway, arboricultural and ecological impacts.

In terms of harms, there would still be harm to the external amenity of No.197 London Road, albeit this harm has been reduced comparatively to the dismissed appeal scheme. In addition, the proposed development would fail to provide a policy compliant level of affordable housing contrary to adopted National and Local Policy. No justification or viability appraisal has been provided to demonstrate why the affordable housing cannot be provided.

When considering the planning balance and having regard to the above, the conflict with the Development Plan, and having regard to the requirements of the NPPF as a whole, it is considered that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as whole. Consequently it is recommended that planning permission is refused for the proposed development.

RECOMMENDATION

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

- 1 Policy CS2 of the Core Strategy requires the provision of affordable housing where certain targets/thresholds are met. In respect of this site, it is considered that the target of 30% affordable housing is applicable. In addition, the NPPF definition of major development includes schemes of 10 or more units. Furthermore, Paragraph 63 of the NPPF states that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. As such, the site generates a requirement for affordable housing provision in accordance with both Adopted National and Local policy.

In this case, the developer has not agreed to pay a financial contribution towards affordable housing provision. As such, the proposed development would fail to provide a policy compliant level of affordable housing contrary to adopted National and Local Policy. No justification or viability appraisal has been provided to demonstrate why the affordable housing cannot be provided. When considering the planning balance, the conflict with the development plan, and having regard to the requirements of the NPPF as a whole, the adverse impacts of granting permission in this case would significantly and demonstrably outweigh the benefits. The proposal is therefore contrary to the NPPF and Policy CS2 of the Core Strategy.

SUBMITTED PLANS

Access Details	Plan Ref: 466_19_FUL_PL1005 Version: A
Proposed Plans	Plan Ref: 466/19/FUL/PL70.00
Specification	Plan Ref: 466/19/FUL/PL1003 Version: A
Existing Site Plan	Plan Ref: 466/19/FUL/PL 1001
Visibility Splays	Plan Ref: 466/19/FUL/PL 1006
Floor Plan	Plan Ref: 466/19/FUL/PL 10.00
Elevations	Plan Ref: 466/19/FUL/PL 10.01
Floor Plan	Plan Ref: 466/19/FUL/PL 20.00
Elevations	Plan Ref: 466/19/FUL/PL 20.01
Floor Plan	Plan Ref: 466/19/FUL/PL 30.00
Elevations	Plan Ref: 466/19/FUL/PL 30.01
Floor Plan	Plan Ref: 466/19/FUL/PL 40.00
Elevations	Plan Ref: 466/19/FUL/PL40.01
Elevations	Plan Ref: 466/19/FUL/PL 50.01
Floor Plan	Plan Ref: 466/19/FUL/PL 50.00
Elevations	Plan Ref: 466/19/FUL/PL60.01
Floor Plan	Plan Ref: 466/19/FUL/PL/60.00
Proposed Site Plan	Plan Ref: 466/19/FUL/PL1002 Version: A
Location Plan	Plan Ref: 466/19/FUL/PL1000
Street elevation	Plan Ref: 466/19/FULPL2000

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER

Appeal Decision

Site visit made on 8 June 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th June 2020

Appeal Ref: APP/Z1510/W/20/3245504

197 London Road, Black Notley, Essex CM77 8QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jon Nash of Regent Square Ltd against the decision of Braintree District Council.
 - The application Ref 19/01575/FUL, dated 23 August 2019, was refused by notice dated 17 January 2020.
 - **The development proposed is described as '12 dwellings scheme together with new vehicular and pedestrian access, associated car parking and landscaping'.**
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have considered the appeal with reference to the revised Noise Impact Assessment dated 9 March 2020 (NIA). This was submitted by the appellant as additional evidence **in response to the Council's request** for an assessment in line with BS4142:2014. The Council were provided with an opportunity to consider this document and provide comments.

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect on the living conditions of future occupants of the appeal scheme and those of 197 London Road, with particular reference to light, outlook, privacy, the adequacy of outside amenity space and noise and disturbance; and
 - Whether the proposal would make adequate provision for surface water drainage, infrastructure and affordable housing.

Reasons

The effect on the character and appearance of the area

4. The appeal site encompasses 197 London Road (No. 197), a residential property with front and rear gardens and what appears to be a small field behind. It is positioned on the eastern side of the road within a stretch of

- linear ribbon development. In contrast, the western side of London Road generally comprises soft landscaping that screens estate housing beyond.
5. Save for the petrol station adjoining the appeal site, the development on the eastern side of the road is arranged in a discernible building line with the front elevations of the residential properties tending to address the road. The dwellings are set behind generously sized front gardens, which mostly include soft landscaping and areas to park cars. This provides a spacious frontage pattern to the appearance of the area. Although not uniform, there is nevertheless a regularity to the plot widths and the scale and massing of buildings. As such, there is a strong pattern to the layout of dwellings along the eastern side of London Road, which affords a pleasant suburban character to the area. This pattern of development is also found in Ludham Hall Lane to the north of the appeal site, which is also a public right of way.
 6. The appeal scheme would introduce a small cul-de-sac with a tight configuration to the rear of the frontage development along London Road. This would jar with the spacious and linear frontage pattern. That said, the development would not be prominent in views from London Road due to the screening afforded by No 197. However, the development would be clearly visible from Ludham Hall Lane over the roadside hedge, where the relatively compact form would appear strident, even though the amenity space and parking would meet local standards. There would be little room for meaningful mitigation in the form of soft landscaping on the boundary to filter and soften views of the development.
 7. The site context may change in the future if draft allocation BLAN114 is adopted and then constructed. However, the timeframe and configuration of this potential development is unclear and therefore this is not a matter that justifies the impacts the appeal scheme would have.
 8. Aspects of the proposal would facilitate a mews type character, such as the narrow width of the street, the position of the houses near to the edge of the carriageway and the discrete entrance off London Road. However, the proposed houses would be relatively tall, with some arranged over three floors, and therefore they would lack a sense of subservience to the frontage development that could otherwise make a mews concept spatially successful.
 9. The narrow entrance off London Road would diminish the legibility of the development and appear cramped. However, the demolition of No. 197, a solution indicated by the Council, would leave a discordant gap in the street scene. Keeping this property in situ would enable continuity to be retained to the frontage pattern of development. On balance, the narrowness of the proposed access would be an understandable compromise.
 10. The turning head would have properties arranged closely around it, but this is not untypical of a mews type arrangement. The turning head could also be softened by using a suitable surface treatment and soft landscaping. Similarly, parking on block is not uncommon in a mews arrangement as it allows a tighter built form. However, the positioning of a pergola at the entrance and garages off the turning head would increase the number of buildings and thus the sense of cramming in what would already be a comparatively tight layout. This would be compounded by the contrived first floor flying links, which would appear as a discordant means of squeezing in more floor space.

11. Save for the contrived links already discussed and the scale of some of the dwellings, the elevations of the properties would be unassuming and therefore provide the appearance of a small grouping of cottages. The use of matching doors and windows would provide harmony and cohesiveness and the bay windows would afford some basic detailing, as would the cills and brick plinths. Plots 6 and 7 would be pleasingly balanced and positioned to punctuate the view along the street. An appropriate pallet of external finishing materials could be secured through the imposition of a planning condition in the event the scheme was acceptable. On balance, the house types would provide a reasonable sense of place given the varied architectural context.
12. In conclusion, when taken as a whole, the proposal would result in a cramped and jarring development that would harm the character and appearance of the area. This would be contrary to Policies RLP3, RLP9 and RLP90 of the Braintree Local Plan Review 2005 (LP) and CS9 of the Braintree District Core Strategy 2011 (CS)¹. These policies together seek to secure development that respects the character and appearance of the area.

The effect on living conditions

13. Plots 9 and 10 would be near a large mature oak tree, which would be positioned on the southern side of these properties. The tree would dominate the relatively modest rear gardens of these properties thereby reducing the outlook and diminishing the level of light. The harmfully inadequate living conditions this would engender would be compounded by leaf litter and the risk of branch shedding, which would further hamper the ability of future occupants to reasonably enjoy the rear gardens.
14. Plot 1 would be located directly behind No. 197 and therefore the rear garden serving it would be overlooked by the occupants of 195 London Road. This would result in a harmful loss of privacy because the garden of Plot 1 would be overlooked at a close range. Plot 1 would also dominate the rear outlook from No. 197 and the front outlook from Plot 6 would be dominated by the car port proposed to be located directly in front of this property.
15. The access road into the appeal site would pass the flank elevation of No.197. Two modest windows face onto this route. It is therefore unlikely that vehicles would be unduly audible from within the house if a suitable surface treatment was used. However, the noise from vehicles passing and repassing the garden of No. 197 would be very apparent to the occupants. This could be attenuated to an extent if a solid boundary, such as a wall, was provided in combination with additional landscaping to provide a defensible area. However, I have seen nothing of substance demonstrating the impact could be reduced to an acceptable level. Thus, based on the evidence before me, I am not satisfied the proposal would have an acceptable impact upon the living conditions of No. 197 in respect of noise and disturbance. That said, a residential redevelopment at the petrol station could proceed without a harmful impact on future living conditions because there would be space to create a defensible buffer.
16. There is a sewer easement running through the appeal site and the drawings show that it would be incorporated in Plots 3, 4, 10 and 11 under the parking

¹ The Council have also referred to Policies RLP2 and RLP56 and Policy CS5 but the relevance of these policies is unclear as the Council has not taken issue with the proposal's location outside the settlement boundary, its impact on the countryside or the amount of parking proposed

areas and rear gardens. Future occupants of these properties may be reluctant to cultivate these spaces or erect garden structures in case access was required in the future. However, Anglian Water has not objected and the evidence before me suggests this situation is not uncommon. Furthermore, the easement would not cover the entire gardens, leaving the areas directly behind the houses, where patios and sheds are likely to be constructed, unaffected. The appeal decision² referred to the Council in respect of this matter related to an outline case where the layout was not fixed. As such, the easement is not a constraint that should prevent residential development in this instance.

17. The adjoining petrol station has a car wash and valeting area to the rear as well as other plant, such as air conditioning units. The NIA has identified that this would have a significant adverse noise impact in the garden of Plot 12. However, it concludes that a timber framed fence to an approved specification would mitigate this noise impact by bringing it below the BS 8233 design range for gardens. The Council has not objected to the NIA as updated or the suggested mitigation and I have no other reason to disagree with the expert findings of the appellant's noise consultants. Accordingly, I am satisfied the evidence before me does not demonstrate the petrol station would have an unacceptable noise impact on future occupants of the appeal scheme.
18. Nevertheless, the absence of harm to the living conditions of future occupants in respect of noise and disturbance from nearby plant and the public easement would not mitigate for the harm that would otherwise occur. Therefore, the development would not provide adequate living conditions for future occupants and this would be contrary Policy RLP90 of the LP and CS9 of the CS³.

Whether the proposal would make adequate provision surface water drainage, infrastructure and affordable housing

19. The appellant has not provided details of surface water drainage, but the site is located in Flood Zone 1, is 0.4 hectares in size and there is no information before me to suggest it has any critical drainage problems or is at risk from other forms of flooding.
20. It is therefore unclear why the Council, advised by Essex SUDS, is seeking detailed drainage details at the application stage when this is a matter that could be addressed through a suitably worded planning condition, as advocated by the appellant. There is nothing of substance before me to indicate that the appeal scheme would be inherently incapable of providing an adequate surface water drainage solution that included a SuDS system. As such, the absence of details is not a matter weighing against the appeal scheme in this instance.
21. Policies CS10 of the CS seeks to ensure a good provision of high quality and accessible green space to meet the recreation, outdoor sport and amenity needs of the district. In order to do this, it requires new development to make appropriate provision taking into account any surpluses and deficiencies, as well as the condition of open space in the vicinity of the site. To this end the Council are seeking a financial contribution towards offsite open space.
22. However, I have not been presented with substantive evidence that demonstrates there is a deficiency in the quantity or condition/quality of open

² APP/Z1510/W/19/3223378

³ The Council has also referred to Policy RLP64, but this relates to land contamination and therefore its relevance to the matters in dispute is unclear

space near to the appeal site. Therefore, the Council has failed to demonstrate that the financial contribution being sought is necessary as per Regulation 122 of the CIL Regulations and Paragraph 56 of the National Planning Policy **Framework (the 'Framework')**. Accordingly, the absence of a mechanism securing the contribution does not justify dismissing the appeal.

23. **The Council's emerging draft Local Plan currently includes** the appeal site as part of a larger site allocation, which also includes the adjoining petrol station. The appellant does not have control over the petrol station, which appears to have recently changed hands and may be a viable going concern with an existing use value that exceeds the redevelopment value as a residential site. The latter points are matters that would need to be tested through the examination of the emerging LP and therefore I do not afford the draft policy relating to allocation BLAN633 anything more than very limited weight.
24. Therefore, as things currently stand there is no extant development plan policy allocating the appeal site and petrol station for residential development and requiring that any development comes forward in a comprehensive way. As such, the proposal is not seeking to artificially subdivide an allocated site and thus circumvent the affordable housing threshold in Policy CS2 of the CS. Therefore, the absence of affordable housing is not contrary to the development plan and material considerations, such as the emerging local plan, do not indicate a decision on this matter should be made otherwise than in accordance with the current extant development plan.
25. I therefore conclude that the drainage details are satisfactory and that the scheme makes adequate provision for affordable housing, which in this instance would be none. Moreover, the Council has not demonstrated that a financial contribution to open space would be necessary in this case. As such, I find that there would be no conflict with Policies RLP69 and RLP71 of the LP and Policies CS1, CS2, CS10 and CS11 of the CS.

Other Matters

26. Given my overall conclusion that the appeal should fail, there would be no future occupants that could increase recreational disturbance and thus harm the integrity of the Blackwater Estuary Special Protection Area. Accordingly, it is unnecessary for me to consider this matter further.
27. Plots 6-8 would have an outlook towards land that would be allocated for residential development **under reference BLAN114 in the Council's** emerging LP. Plot 8 would have a reasonably shallow garden which would be close to the boundary with BLAN114, although the existing boundary hedge would be retained. However, other than a plan showing the extent of the allocation, I have not been presented with anything of substance, such as a design brief or illustrative layout, that would suggest the configuration of Plot 8 would in any way harmfully prejudice the layout of the allocation were it to come forward or that the allocation could not be arranged to take account of Plot 8.
28. **The evidence before me does not demonstrate the Council's emerging** draft Local Plan is at an advanced stage of preparation and consequently there is potential for further amendments following consultation and examination. As such, the emerging policies referred to by the Council in its reason for refusal carry limited weight and have not been determinative in my assessment.

Planning Balance

29. The proposal would harm the character and appearance of the area and provide inadequate living conditions for future occupants and those of No. 197. Taken as a whole, it would be at odds with the development plan. A development should be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a material consideration of significance.
30. The Council are currently unable to demonstrate a five-year housing land supply at odds with Paragraph 73 of the Framework. The supply is presently around 4.51 years. The Council are therefore failing to significantly boost the supply of housing. In such circumstances, Paragraph 11 of the Framework states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole.
31. As adverse impacts, the proposal would harm the character and appearance of the area and provide inadequate living conditions for future occupants and those of No. 197. This would be at odds with the development plan and Paragraph 127 of the Framework. Accordingly, these are matters of significant weight against the proposal.
32. Conversely, the proposal would deliver several benefits. It would contribute to housing supply and choice at a point in time when there is a shortfall. Due to the scale of the proposal it is likely the housing could be delivered quickly. **However, the appeal scheme is not large and the Council's housing shortfall is modest.** The Council is also actively seeking to remedy the housing deficit through the preparation of a new local plan, which is currently being examined. In the circumstances, the provision of housing is a moderate benefit.
33. In addition, the housing would not be isolated being surrounded by existing development and it would be reasonably close to local services. However, there is little evidence before me to suggest twelve additional households would have a notable economic or social effect. The proposal would provide some support to the construction industry, but this would be moderate in scale and duration. Thus, the weight I attach the potential socio-economic benefits is moderate.
34. When taken cumulatively, the adverse impacts of the appeal scheme would significantly and demonstrably outweigh its benefits. This is not a material consideration that indicates the appeal should be determined otherwise than in accordance with the development plan.

Conclusion

35. The proposed development would be contrary to the development plan taken as a whole and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Graham Chamberlain

INSPECTOR

PART A

AGENDA ITEM NUMBER 5c

APPLICATION NO: 20/01568/FUL

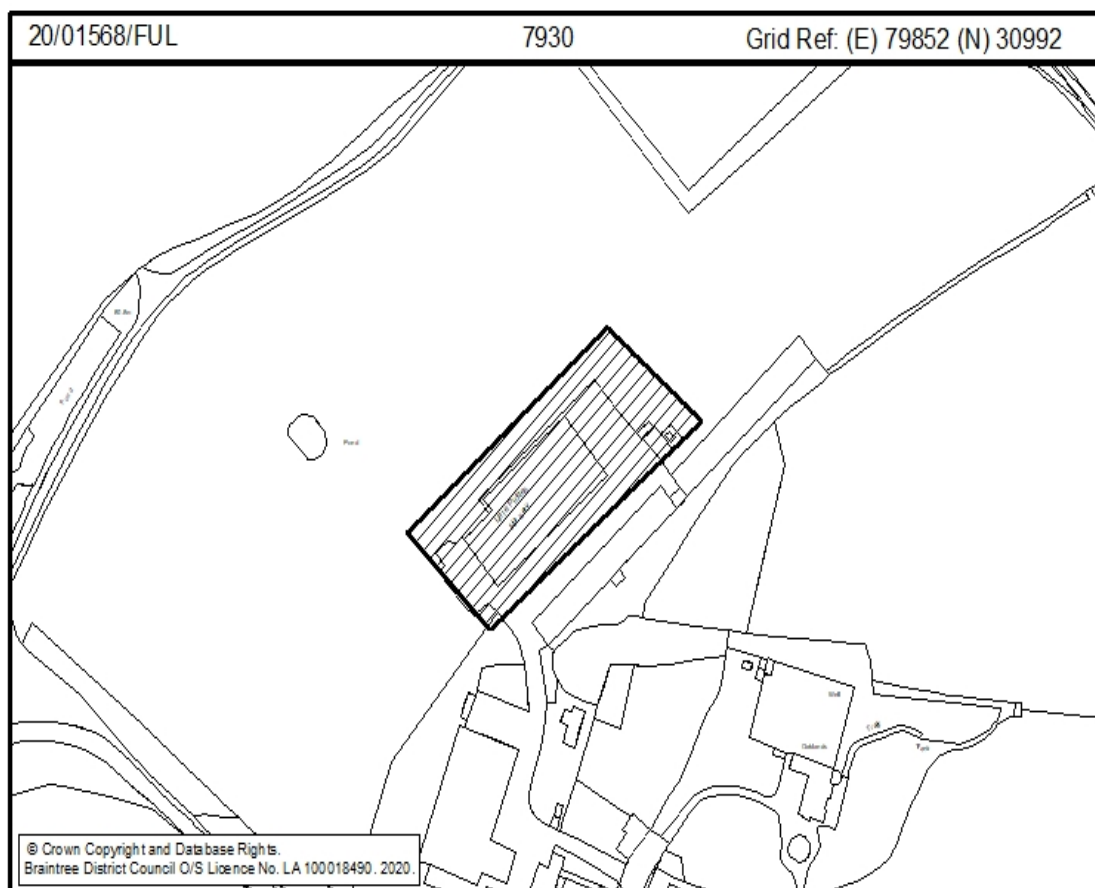
DATE VALID: 09.11.20

APPLICANT: Whitehouse Holdings Halstead Ltd
Mr Simon Bragg, Whitehouse Business Park, White Ash Green, Halstead, Essex, CO9 1PB

DESCRIPTION: Demolition and removal of existing buildings, erection of Warehouse Extension with associated ground works.

LOCATION: Whitehouse Business Park, White Ash Green, Halstead, Essex, CO9 1PB

For more information about this Application please contact:
Helen Reeve on:- 01376 551414 Ext. 2503
or by e-mail to: helen.reeve@braintree.gov.uk



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QH2F4FBFGSU00>

SITE HISTORY

19/00062/CL	Warehouse extension and associated ground works.	Appeal Dismissed	26.02.20
00/00760/COU	Proposed change of use of industrial building to indoor childrens adventure playground	Granted	26.07.00
01/02081/FUL	Erection of extension to existing packaging building - Renewal of Application No. 97/00061/FUL	Refused	01.02.02
02/01980/FUL	Proposed extension to facilities at 'Tumblewood' Childrens Play Centre to provide Family Health and Fitness Club	Granted	30.12.02
04/01211/ADV	Display of 2 no. post mounted identification boards	Granted	29.07.04
77/00719/	Automatic car-wash	Granted	06.09.77
94/00850/ELD	Application for Certificate of Lawfulness for storage and packaging	Granted	07.09.94
94/00854/FUL	Proposed replacement toilets/offices/kitchen-rest room incorporated in new store/packing building	Granted with S106 Agreement	13.03.95
96/00184/FUL	Demolition of existing building and erection of replacement building	Granted	26.04.96
97/00061/FUL	Erection of extension to existing packaging building	Granted	07.03.97
97/01250/FUL	Erection of bin/skip building	Refused	09.02.98
08/01531/FUL	Change of use from B1 Offices to Veterinary Surgery	Granted	24.10.08
15/00265/FUL	Change of use from (D1) Day Nursery to office and storage unit B1(a)/B8	Granted	10.04.15
18/01511/FUL	Change of use from D2 to B1(a)/B8.	Granted	24.10.18
19/00648/PLD	Warehouse extension and associated ground works.	Refused	13.06.19

POLICY CONSIDERATIONS

On the 22nd February 2021, Braintree District Council adopted the Shared Strategic Section 1 Local Plan.

On adoption, the policies in the Shared Strategic Section 1 Local Plan superseded Policies CS1, CS4, CS9 and CS11 of the Core Strategy (2011).

The Council's Development Plan therefore consists of the Braintree District Local Plan Review (2005) ("the Adopted Local Plan"), the policies of the Core Strategy (2011) (the Core Strategy) which are not superseded, the Shared Strategic Section 1 Local Plan (2021) ("the Section 1 Plan"), and any Adopted Neighbourhood Plan.

The local authority is now moving forward with the examination of Section 2 of the Draft Local Plan. In accordance with Paragraph 48 of the NPPF, from the day of publication the Council can give weight to the policies of this emerging Draft Section 2 Local Plan ("the Section 2 Plan") and the weight that can be given is related to:

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

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

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

Accordingly the Council affords some weight to the Section 2 Plan.

National Planning Guidance

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

Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP40	Minor Industrial and Commercial Development in the Countryside
RLP56	Vehicle Parking
RLP65	External Lighting
RLP80	Landscape Features and Habitats
RLP90	Layout and Design of Development

Braintree District Local Development Framework Core Strategy 2011

CS5	The Countryside
CS8	Natural Environment and Biodiversity

Braintree District Shared Strategic Section 1 Local Plan (2021) & Draft Section 2 Local Plan (2017)

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP8	Rural Enterprise
LPP45	Parking Provision
LPP55	Layout and Design of Development
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP81	External Lighting

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to Planning Committee in accordance with Part A of the Council's new Scheme of Delegation as the application is categorised as a Major planning application, given the proposed floorspace exceeds 1,000sq.m.

DESCRIPTION OF THE SITE AND SITE CONTEXT

The site is located to the north-west of Halstead, within the countryside for planning purposes.

The site itself is part of the established 'Whitehouse Business Park' which comprises a small business estate, originally a farmstead, containing a range of buildings now used for commercial purposes. The development area is identified to include a large warehouse on the north-western edge of the group of buildings (the subject of this application), together with 2no. linear buildings and a smaller building and office identified for demolition, all within close proximity to each other. The wider area identified in blue denotes the ownership boundary covering the remainder of the Whitehouse Business Park and land beyond to the north. Access to the site is gained from the existing main entrance to Whitehouse Business Park, off Halstead Road.

In terms of topography of the site and countryside beyond, the site is fairly open and given the gently undulating landscape, the existing buildings are visible from certain vantage points. A bund exists along the north-western edge of the site just behind the existing building. Furthermore, the site is also identified within an area identified in the Council's Landscape Character Assessment as the Gosfield Wooded Farmland area.

PROPOSAL

The application seeks planning permission for an extension to an existing industrial building for the purposes of providing additional storage facilities for the current occupants of the building. The existing building measures 1,850sq.m and the proposed extension would provide an additional 1,375sq.m footprint, forming an 'L' shaped extension on the north-eastern side of the existing building. The height of the extension and the proposed materials would match the existing building.

As part of the proposals, 2 buildings would be removed as identified on the submitted Land Ownership Plan, No. 18/701/19 equating to 106sq.m – one a low level agricultural style building and the second, a prefabricated office building.

The proposed extension would be sited on an existing car parking area, however 21no. car parking spaces would be retained to the south-western end of the existing building.

It is understood that product storage space has become an increasing issue due to the uncertainty in the distribution market caused by Brexit and more recently the global pandemic relating to Covid-19. Storage space currently amounts on site to 3,812sq.m including the building proposed for extension, all of which are now full following the granting of planning permission for storage facilities under 18/01411/FUL. A total of 6 storage containers are currently in situ on the site which are being used for storage purposes in addition to the permanent buildings – 3 of which are located on the area of land proposed for the extension and 3 are sited at the front of the building. In addition, the business is currently renting storage space equating to 1,300sq.m in Sudbury and it is envisaged that the extension to the existing warehouse at Whitehouse Business Park would enable the operations to be contained fully in one place.

SUMMARY OF CONSULTATION RESPONSES

ECC Highways

The proposal is acceptable to the Highway Authority.

ECC SUDS

No Objection,

Essex Fire and Rescue

Generally acceptable, advice provided.

Anglian Water

Applicant should check for any Anglian Water assets which cross or are within close proximity to the site.

BDC Ecology

No objection, subject to securing mitigation and enhancement measures.

BDC Landscape Services

No comments received.

PARISH / TOWN COUNCIL

No response at time of writing report.

REPRESENTATIONS

A site notice has been displayed at the entrance to Whitehouse Business Park. A number of units at the site have been notified – no responses have been received.

REPORT

Principle of Development

The site is located within the countryside as defined in the Adopted Local Plan. Policy RLP2 of the Adopted Local Plan and Policy LPP1 of the Section 2 Plan seek to confine new development within town development boundaries and village envelopes and goes on to state that outside these areas countryside policies will apply.

Policy CS5 of the Core Strategy states that development outside town development boundaries, village envelopes and industrial development limits will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.

As identified, the proposals involve the erection of an extension to an existing commercial building to enable the company to expand its storage provision.

Notwithstanding the planning policies identified above in relation to development within the countryside, the National Planning Policy Framework (NPPF) is clear that support should be given to rural enterprise and Paragraph 80 states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Paragraph 83 of the NPPF supports a 'prosperous rural economy' and states that planning policies and decisions should enable to the sustainable growth and expansion of all types of businesses in rural areas, both through conversion of existing buildings and well-designed new buildings.

Policy RLP40 of the Adopted Local Plan and Policy LPP8 of the Section 2 Plan supports this positive stance, which allows for minor industrial and commercial development in the countryside and states that the extension of existing industrial and commercial development, providing it is on a small scale, and compatible with the surrounding area, will normally be considered favourably. It goes on to state that in order to be considered favourably, proposals should not be detrimental in terms of visual impact, noise, smell or other pollution, or excessive traffic generation, health or safety or loss of nature conservation interests. Proposals will be subject to high standards of design, landscaping and other such requirements as may be necessary to reduce the impact of the development.

National and Local Policy is therefore generally supportive of commercial development in the countryside, however a balanced judgement needs to be made in terms of weighing the extension to an existing building on the site, against development in the countryside, particularly given the sensitive location in a Landscape Character Area.

The site itself is a long established small business park with its origins as a farmstead. Officers, having visited the site, are aware that existing storage capacity on site is being exceeded with a number of temporary storage containers on site which are being used to store foodstuffs in relation to the business. As already stated, storage facilities are currently being utilised in Sudbury. The applicant also states that the proposed extension would result in the creation of 3–4 additional jobs, in addition to the current 4 jobs at the site. It is clear the business is thriving, notwithstanding the difficulties in needing to expand.

In this respect, Officers also recognise that the process of seeking permission for an extension to the existing building has been a protracted one with a refusal of a lawful development certificate, under application reference 19/00648/PLD, for a smaller extension, which has subsequently been dismissed at appeal.

With National and Local Policy generally supportive of rural enterprise and the fact that the site has an established business running and the proposed extension would support the continuation and expansion of the business, Officers support the principle of extending the existing building on site.

Design, Appearance, Visual and Other Impacts within the Countryside

The consideration must therefore move onto weighing the potential impact of new development within the countryside, taking account also of the sensitive location within the Gosfield Wooded Farmland Landscape Character Area.

As stated previously, although National and Local Planning Policy is supportive of supporting a prosperous rural economy, there is a recognition that such development should be carried out without detriment to the intrinsic character and beauty of the countryside.

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

As already identified, the site lies with the Gosfield Wooded Farmland Landscape Character Area, which is identified as having a 'relatively highly sensitive to change'. Suggested Landscape Planning Guidelines are listed as follows:

- Consider the visual impact of new residential development and farm buildings within the wooded farmland.
- Ensure any new development is small scale, responding to historic settlement pattern, landscape setting and locally distinctive building styles.

Suggested Land Management Guidelines are listed as:

- Conserve and enhance the existing hedgerow pattern and strengthen through planting which is appropriate to local landscape character.
- Conserve and manage areas of ancient and semi-natural woodland as important historical, landscape and nature conservation features.
- Conserve and manage the ecological structure of woodland, copses and hedges within the character area.
- Conserve and promote the use of building materials which are in keeping with local vernacular/landscape character.

The proposed extension would be contained within the existing, developed part of the site, which already has established buildings and the extension in terms of height, scale and bulk would largely replicate the existing building, including external materials. The overall height would also be maintained as existing. In terms of topography of the site and countryside beyond, the site is fairly open and given the gently undulating landscape, is visible from certain vantage points. It is considered that given the proposed development comprises an extension to an existing building, the impact within the countryside would not be detrimental and the increase in impact of the existing building would be limited. A landscaping scheme has been submitted, which confirms that the existing bund which runs along the north-western boundary of the site will be extended and planted and further planting will be included directly behind the extension on its North Western side. A condition is recommended which requires this landscaping to be undertaken in accordance with the details submitted.

Officers have also ascertained that in relation to the 6no. temporary storage containers currently in situ, these will be removed once the extension is built

and fully operational. It is considered appropriate in this respect to impose a compliance condition requiring said containers to be removed from the site within 6 months of the first occupation/first use of the proposed extension, in the interests of visual amenity, given the site lies in a sensitive rural locality.

In relation to the generation of traffic in this sensitive rural location, the submitted statement refers to the existing situation of storage being kept in Sudbury. Following the erection of the proposed extension, the facility in Sudbury would not be required and as such the applicant does not envisage that vehicular movements to and from the site would increase as those movements to and from Sudbury would cease. In this respect, Officers accept that traffic increase would be marginal, if at all, and this element would therefore not have a detrimental impact on the countryside to a level which would warrant withholding planning permission. Furthermore, no objections to the proposal have been raised by the Highway Authority.

In summary and in weighing up the positive impacts of the development in terms of supporting a prosperous rural economy against the harm of unsustainable development within the countryside, Officers consider that the proposed extension to an existing facility, would support an existing rural enterprise. Furthermore, as the proposal is relatively small scale in terms of built form and usage it is considered that the positive measures outweigh the harm of development in the countryside and the general principle of this development is considered to be acceptable.

Ecology and External Lighting

Policy RLP65 of the Adopted Local Plan and LPP81 of the Section 2 Plan requires that proposals for external lighting will only be permitted if, among other issues, that there is no unacceptable harm to natural ecosystems.

Policy RLP80 of the Adopted Local Plan and Policy LPP70 of the Section 2 Plan require that proposals for new development will be required to include an assessment of their impact on wildlife and should not be detrimental to the distinctive landscape features and habitats of the area and development that will not successfully integrate into the local landscape will not be permitted.

External lighting is not explicitly referred to as part of the planning application, however it is considered likely that some form of lighting will be required in terms of safety of operation in the winter when daylight hours are reduced. The submitted Ecology Report provides a specification for any external lighting being installed.

The submitted Ecology Report has confirmed there is no evidence of bats and the buildings have limited bat roost potential in the buildings to be demolished and extended. As such, the Council's Ecology Officer raises no objection to the proposal, subject to a lighting condition, as the site has the potential to support foraging and commuting bats, and a further ecology condition to implement the recommendations set out within the submitted Ecology Report.

Subject to these conditions, Officers consider that the proposal is acceptable in this regard.

Impact on Neighbouring Residential Amenity

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan state that there shall be no undue or unacceptable impact on the amenity of any nearby residential properties.

There are no residential neighbouring properties within close proximity; the closest would appear to be Oaklands, which would appear to share the same access to Whitehouse Business Park, which is in excess of 130 metres from the location of the warehouse, the subject of this application.

It is noted in the supporting Design and Access Statement that opening hours are proposed to be the same as approved on planning permission reference 15/00265/FUL, which granted permission for the change of use from (D1) Day Nursery to office and storage unit (B1(a)/B8). It is considered appropriate to impose a condition in this respect such the existing hours of operation would apply to the enlarged building.

Highway Issues

As already identified, the site is served by an existing access which would not be changed. The proposals involve building the extension onto an area within the site which is currently identified for parking. However, storage containers are in situ and the parking area is not used as such. The existing 21no. parking spaces along the south-western edge of the site would be retained.

The application form states that there are currently 4 full time members of staff and the proposed extension would result in an additional 3 full time members, equating to 7 full time members of staff.

In accordance the Essex County Council Parking Standards (2009), a maximum of 1 space per 30sq.m for B1 uses and a maximum of 1 space per 150sq.m for B8 uses is required.

The existing floorspace of the building and the linear building directly to the south equates to 3,812sq.m. Taking into account the proposed extension (1,375sq.m), the resultant floorspace would equate to 5,187sq.m. Given that the majority of the building is currently used for storage and distribution uses, it is considered appropriate to apply the parking standards for B8 uses. Accordingly, the adopted Parking Standards would require a maximum of 35no. spaces. However, given the nature of the use and the low level number of employees, the provision of 21no. spaces as proposed is considered to be acceptable in this case.

Essex County Council Highways Authority find the scheme, including the level of parking provision, to be acceptable. As such, Officers have no reason to

raise objection to the proposals in this respect and the scheme is considered to be acceptable.

Sustainable Urban Drainage Scheme (SUDS)

The applicant has submitted revisions to the originally submitted scheme in this respect, following holdings objections raised by Essex County Council as the Lead Local Flood Authority. It is now confirmed as per the LLFA's most recent letter dated 3rd February 2021 that no objection is raised provided the measures detailed in the Flood Risk Assessment are implemented as agreed.

PLANNING BALANCE AND CONCLUSION

The site lies outside of an identified town or village boundary and lies within a countryside location.

As identified, there is National and Local planning policy support in relation to the provision of development which supports a prosperous rural economy – the proposed extension to an existing commercial building would assist in meeting this positive stance within the NPPF and would create new jobs.

The proposed design and appearance of the extension is considered to be acceptable and it is concluded that the proposal would not have a detrimental impact upon the character and appearance of the area or the wider landscape setting. The proposal is considered to be satisfactory in terms of highway and parking considerations, and subject to conditions, the proposal would not have a detrimental impact upon ecology.

As such, the benefits of the proposed development are considered to outweigh the harms identified and accordingly it is recommended that planning permission is granted.

RECOMMENDATION

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

APPROVED PLANS

Location Plan	Plan Ref: 18/701/20
Existing Block Plan	Plan Ref: 18/701/23
Proposed Block Plan	Plan Ref: 18/701/21
Landscape Masterplan	Plan Ref: 18/701/22
Existing Floor Plan	Plan Ref: 18/701/10
Existing Elevations	Plan Ref: 18/701/11
Proposed Floor Plan	Plan Ref: 18/701/17
Proposed Elevations	Plan Ref: 18/701/18
General	Plan Ref: 18/701/19

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

Reason

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

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

Reason

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

- 3 The external materials and finishes shall be as indicated on the approved drawings and application form.

Reason

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

- 4 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order amending, revoking and re-enacting that Order) the premises shall be used for uses falling within Use Classes B1(a) and B8 and for no other purpose.

Reason

The site lies within a rural area where development is restricted and to enable the local planning authority to give consideration to any other use of the building other than for the uses hereby approved.

- 5 The premises shall not be open for business outside the following times:-

Monday to Friday 0800 hours 1800 hours

Saturday, Sunday, Bank Holidays and Public Holidays - no opening.

Reason

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

- 6 The proposed development shall be implemented in accordance with the measures contained within the Flood Risk Assessment and accompanying documentation.

Reason

In the interests of flood prevention.

- 7 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological

Appraisal (Growing Native, November 2020).

This may include the appointment of an appropriately competent person e.g. an ecological clerk to works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities and works shall be carried out in accordance with the Preliminary Ecological Appraisal.

Reason

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

- 8 Prior to the installation of any external lighting at the site, a lighting design scheme to protect biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on, or immediately adjoining the site, that are particularly sensitive for bats including those areas where lighting could cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas of the development that are to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and retained thereafter in accordance with the scheme.

Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason

In the interests of protecting habitats for nocturnal species and pollution of the environment.

- 9 The scheme of landscaping indicated upon the approved plan reference 18/701/22 (landscaping layout), or such other scheme as may be approved in writing by the local planning authority, shall be carried out during the first available planting season after the commencement of the development. Any trees or plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

Reason

To enhance the appearance of the development and mitigate against the impact of development within this sensitive rural location.

- 10 Within 6 months from the date of first occupation of the extension hereby approved, the existing 6 no. storage containers shall be permanently removed from the site.

Reason

In the interests of visual amenity, given the siting of the proposed development within a sensitive rural locality.

INFORMATION TO APPLICANT

1 Please note that in accordance with Government Legislation a formal application must be made to the Local Planning Authority when submitting details in connection with the approval of details reserved by a condition. Furthermore a fee of £34 for householder applications and £116 for all other types of application, will be required for each written request. Application forms can be downloaded from the Council's web site www.braintree.gov.uk

CHRISTOPHER PAGGI
PLANNING DEVELOPMENT MANAGER