

# PLANNING COMMITTEE AGENDA

**Tuesday 30th November 2021 at 7.15pm**

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

**THIS MEETING IS OPEN TO THE PUBLIC**

*(Please note this meeting will be broadcast via the Councils YouTube Channel,  
webcast and audio recorded) [www.braintree.gov.uk](http://www.braintree.gov.uk)*

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

**Membership:-**

|                         |   |
|-------------------------|---|
| Councillor J Abbott     | Councillor Mrs I Parker (Vice Chairman) |
| Councillor Mrs J Beavis | Councillor F Ricci                      |
| Councillor K Bowers     | Councillor Mrs W Scattergood (Chairman) |
| Councillor P Horner     | Councillor P Schwier                    |
| Councillor H Johnson    | Councillor Mrs G Spray                  |
| Councillor D Mann       | Councillor J Wrench                     |
| Councillor A Munday     |   |

**Substitutes:** Councillors T Cunningham, A Hensman, D Hume, P Thorogood,  
Mrs S Wilson, Vacancy (*Substitutes who wish to observe the  
meeting will be required to do so via the Council YouTube  
Channel*).

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

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

A WRIGHT  
Chief Executive

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

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

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

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

Members of the public wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk) by **midday on the second working day** before the day of the Committee meeting. For example, if the Committee Meeting is on a Tuesday, the registration deadline is midday on Friday, (where there is a Bank Holiday Monday you will need to register by midday on the previous Thursday).

The Council reserves the right to decline any requests to register to speak if they are received after this time.

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

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

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

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

**Substitute Members:** Only the named Substitutes on this agenda can be appointed by a Member of the Committee to attend in their absence. The appointed substitute becomes a full member of the Committee with participation and voting rights.

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

**Public Attendance at Meeting:** Public attendance is welcomed, but is subject to restrictions due to the Council's arrangements for keeping Causeway House COVID secure and visitors safe.

Public attendance is limited and will be on a first come first served basis with priority given to public registered speakers. In order to maintain safe distances, the Council may have to refuse entry to members of the public. The public will not be able to sit in the Council Chamber, but will be permitted to observe the meeting from a public gallery through a large screen. Alternatively, the Council meetings are webcast and are available via the Council's YouTube Channel and can be viewed by the public as a live broadcast, or as a recording following the meeting.

Public speakers and public attendees are required to attend on their own, and where possible only one representative of any community group, family household or Company should attend.

Members of the public intending to come to Causeway House to observe a meeting are recommended to watch the meeting via the webcast, or to contact the Governance and Members Team to reserve a seat within the public gallery.

### **Health and Safety/COVID:**

Causeway House is a Covid secure building and arrangements are in place to ensure that all visitors are kept safe. Visitors are requested to follow all instructions displayed at Causeway House or given by Officers during the course of their attendance. All visitors will be required to wear a mask or face covering, unless an exemption applies.

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

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

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

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

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

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

**3 Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meetings of the Planning Committee held on 28th September 2021, 12th October 2021, 26th October 2021 and 2nd November 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**

|           |  |                |
|-----------|--|----------------|
| <b>5a</b> | <b>App. No. 21 00669 FUL – Land West of Hill House,<br/>Brent Hall Road, FINCHINGFIELD</b> | <b>6-46</b>    |
| <b>5b</b> | <b>App. No. 21 01810 FUL – Land off Western Road,<br/>SILVER END</b>                       | <b>47-93</b>   |
| <b>5c</b> | <b>App. No. 21 02003 FUL – Brook Farm Barns, Station Road,<br/>COLNE ENGAIN</b>            | <b>94-112</b>  |
| <b>5d</b> | <b>App. No. 21 02658 S106A – Land West of Mount Hill,<br/>HALSTEAD</b>                     | <b>113-126</b> |

**PART B Minor Planning Applications**

There are no applications in Part B

**6     Tree Preservation Order 08 2021 – The Beeches, Braintree Road, 127-156  
GREAT BARDFIELD**

**7     Urgent Business - Public Session**

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

**8     Exclusion of the Public and Press**

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

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

**PRIVATE SESSION**

**Page**

**9     Urgent Business - Private Session**

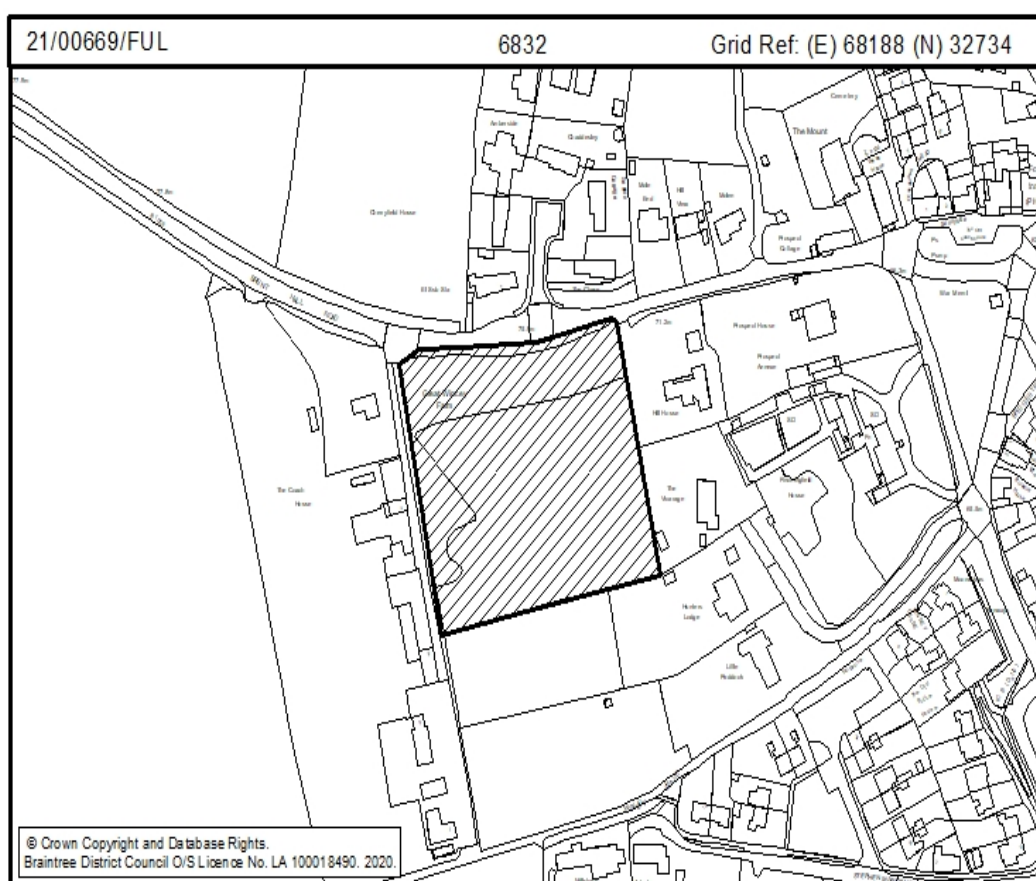
To consider any matter which, in the opinion of the Chairman,  
should be considered in private by reason of special circumstances  
(to be specified) as a matter of urgency.

PART A

AGENDA ITEM NUMBER 5a

APPLICATION NO: 21/00669/FUL  
DATE VALID: 26.02.21  
APPLICANT: Harding Group  
Mr Mark Harding, 111 Crouch Street, Colchester, CO3 3HA  
AGENT: Phase 2 Planning  
Mr Matthew Wood, 270 Avenue West, Skyline 120, Great Notley, Braintree, CM77 7AA  
DESCRIPTION: Construction of 11no. new dwellings with new dedicated access from Brent Hall Road and associated development.  
LOCATION: Land West Of Hill House, Brent Hall Road, Finchingfield, Essex

For more information about this Application please contact:  
Lisa Page on:- 01376 551414 Ext. 2516  
or by e-mail to: [lisa.page@braintree.gov.uk](mailto:lisa.page@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QP58JOBFI RH00>

### SITE HISTORY

|              |   |                  |          |
|--------------|---|------------------|----------|
| 00/00012/REF | Erection of 8 detached 4 bedroomed houses   | Appeal Withdrawn | 06.04.00 |
| 19/00035/REF | Outline planning permission, with all matters reserved for the erection of 10 dwellings | Appeal Allowed   | 28.01.20 |
| 19/00070/REF | Outline planning permission, with all matters reserved for the erection of 16 dwellings | Appeal Allowed   | 28.01.20 |
| 99/01779/OUT | Erection of 8 detached 4 bedroomed houses   | Refused          | 17.02.00 |
| 18/01442/OUT | Outline planning permission, with all matters reserved for the erection of 10 dwellings | Refused          | 14.02.19 |
| 18/01443/OUT | Outline planning permission, with all matters reserved for the erection of 16 dwellings | Refused          | 14.02.19 |

### 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  |
| RLP7  | Housing and Mixed Use Sites                        |
| RLP8  | House Types  |
| RLP9  | Design and Layout of Housing and Mixed Use Areas   |
| RLP10 | Residential Density                                |
| RLP49 | Pedestrian Networks                                |
| RLP51 | Cycle Parking                                      |
| RLP53 | Generators of Travel Demand                        |
| RLP54 | Transport Assessments                              |
| RLP56 | Vehicle Parking                                    |
| RLP65 | External Lighting                                  |
| RLP71 | Water Supply, Sewerage & Drainage                  |
| RLP74 | Provision of Space for Recycling                   |
| RLP84 | Protected Species                                  |
| RLP90 | Layout and Design of Development                   |
| RLP92 | Accessibility                                      |
| RLP95 | Preservation and Enhancement of Conservation Areas |

### Braintree District Local Development Framework Core Strategy 2011

|     |                                      |
|-----|--------------------------------------|
| CS2 | Affordable Housing                   |
| CS5 | The Countryside                      |
| CS7 | Promoting Accessibility for All      |
| CS8 | Natural Environment and Biodiversity |

### Braintree District Shared Strategic Section 1 Local Plan (2021)

|     |  |
|-----|--|
| SP1 | Presumption in Favour of Sustainable Development |
| SP6 | Infrastructure & Connectivity                    |
| SP7 | Place Shaping Principles                         |



## Braintree District Draft Section 2 Local Plan (2017)

|       |   |
|-------|---|
| LPP1  | Development Boundaries                              |
| LPP17 | Housing Provision and Delivery                      |
| LPP37 | Housing Type and Density                            |
| LPP45 | Parking Provision                                   |
| LPP50 | Built and Historic Environment                      |
| LPP55 | Layout and Design of Development                    |
| LPP56 | Conservation Areas                                  |
| LPP60 | Heritage Assets and their Settings                  |
| LPP63 | Archaeological Evaluation, Excavation and Recording |
| LPP71 | Landscape Character and Features                    |
| LPP72 | Green Buffers                                       |
| LPP78 | Flooding Risk and Surface Water Drainage            |
| LPP80 | Sustainable Urban Drainage Systems                  |
| LPP81 | External Lighting                                   |

## Neighbourhood Plan

N/A

## Other Material Considerations

Essex Design Guide for Mixed Use and Residential Areas  
Essex Parking Standards – Design and Good Practice

## 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 a vacant field, located on the southern side of Brent Hall Road, to the west of Finchingfield with a site area of approximately 1.05ha. The site is situated outside of the defined development boundary for Finchingfield and has been advertised as a departure from the Development Plan.

There are residential properties abutting the eastern boundary of the site, with agricultural barns to the west (permission granted in 2018 for conversion to residential). The site is situated within the designated Conservation Area for Finchingfield.

As noted above within the history, planning permission was allowed at appeal for two different schemes comprising 10 and 16 dwellings under Application References 18/01442/OUT and 18/01443/OUT respectively. These were

approved with all matters reserved. These permissions remain extant. A copy of the appeal decisions are attached as an appendix to this report for information.

## PROPOSAL

This application seeks full planning permission for the erection of 11no. dwellings, consisting of 7 market dwellings and 4 affordable dwellings. The market dwellings are formed by 5no. detached dwellings and 1 semi-detached pair. Each of these dwellings would benefit from a detached garage and driveway provision. The affordable dwellings are formed by 2 pairs of semi-detached dwellings with driveway parking.

### Market Housing (Plots 1-7)

2no. x 4 bed dwellings  
3no. x 5 bed dwellings  
1no. x 5/6 bed dwelling  
1no. x 6/7 bed dwelling

### Affordable Housing (Plots 8 - 11)

4no. x 2 bed dwellings

The dwellings would be laid out within a circular layout around the perimeter of the site, facing onto an internal landscaped open space, contained by the shared surface. Each dwelling benefits from the provision of a private rear garden. Towards the site frontage, alongside Brent Hall Road, is the provision of a further landscaped open space. A pedestrian access crosses this area and provides a more direct route from the site to the road and into the village centre. The dwellings would be served by one vehicular access point onto Brent Hall Road.

## SUMMARY OF CONSULTATION RESPONSES

### ECC Highways

Comment that the development is acceptable to the Highway Authority subject to conditions.

### Essex County Fire & Rescue Service

Draw attention to the following matters: Access, building regulations, water supplies, and sprinkler systems.

### BDC Ecology

No objection subject to conditions to secure biodiversity mitigation, enhancement measures and an appropriate lighting strategy.

#### Local Lead Flood Authority (SUDS)

No objections subject to conditions.

#### Historic Buildings Consultant

Comment that the layout and various house types, would not have a detrimental impact on the significance and character of the Finchingfield Conservation

Area. In general, the materials suggested for use are acceptable and the retention and enhancement of the tree and hedge boundary to the site is appropriate, as is the landscaped open space. No objections subject to conditions.

#### BDC Waste

Made no comments.

#### BDC Housing

Support the application and comment that the affordable unit and tenure mix is appropriate.

#### ECC Archaeology

Recommend the imposition of a condition to properly provide for archaeological evaluation.

#### Essex Police - Designing Out Crime

No concerns with the layout but comment that bollard lighting is inappropriate as it does not project sufficient light at the right height making it difficult to recognise facial features and as a result causes an increase in the fear of crime. They also comment that defensive planting be utilised on a number of plots to prevent nuisance being caused by footballs hitting fences.

#### Natural England

No comments

#### Anglian Water

Comment that there are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. The site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space, or the sewers will need to be diverted. In regards to wastewater treatment comment that the foul drainage from this development is in the catchment of Wethersfield Water Recycling Centre that will have available capacity for these flows. In regards to the used water network

comment that the sewerage system at present has available capacity for these flows.

## PARISH / TOWN COUNCIL

### Finchingfield Parish Council

Finchingfield Parish Council support the application but raise the following comments:

- The existing poor quality hedge screening on the Brent Hall Road (as already identified in the proposal) should be replaced with improved quality, ideally semi-mature tree screening and allowed to grow to a minimum height of 4 metres;
- The tree screening on Brent Hall Road should be thickened and deepened to cover a small strip of the 'green space' effectively creating a double depth green screening to Brent Hall Road;
- The two footpath lights should be 'down-lights' thus minimising light pollution on entering the village after dark.

## REPRESENTATIONS

The application was advertised by way of site notice; neighbour letters; and a press notice.

1 letter has been received raising the following comments:

- The hedge referred to within the Tree Survey is within neighbouring land;
- The design and access statement refers to a telegraph pole to be piped underground – however this is also within neighbouring land.

4 letters of objection have been received, raising the following comments:

- The layout and orientation will result in overlooking / a loss of privacy to neighbours;
- The scheme includes semi-detached properties which conflict with the existing density, consisting exclusively of detached properties in large plots;
- The additional traffic that will be forced to use Brent Hall Road to access local amenities represents a severe highway safety risk to anyone walking or cycling (do not consider that this was adequately addressed on the allowed appeals). An accident occurred last year between a motorcycle and a lorry.
- Footpath link will result in light pollution and noise to neighbours;
- Pedestrian would be safer to use the main vehicular access;
- Seek to have frontage planting re-instated;
- Seek the frontage 'no development zone' to be planted to prevent people using this as recreational space which would generate noise disturbance;
- Colours of the dwelling out of keeping;
- Wish to restrict hour of working;

- Should be restrictions during construction to prevent parking of surrounding roads.

## REPORT

### PRINCIPLE OF DEVELOPMENT

#### National Planning Policy Framework (NPPF) 2021

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 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay.

Paragraph 74 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.

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

Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005), the Braintree District Core Strategy (2011), and the Shared Strategic Section 1 Local Plan (2021).

The application site is located outside of a development boundary and lies within the Countryside. However, the site already has outline planning permission for two different layouts for 10 and 16 dwellings, granted under Application References 18/01442/OUT and 18/01443/OUT respectively. These permissions remain extant and therefore represent a material planning consideration in the assessment of this application which must be given significant weight. The principle of development of the site has therefore been established.

### 5 Year Housing 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 2021. Within this trajectory the Council considered that it has a 5.34 year supply of housing, based on a 5% buffer.

At its full Council on the 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Local 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. 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 Council's Housing Land Supply position has recently been contested as part of an appeal at Land North of Station Road, Earls Colne (APP/Z1510/W/21/3267825). Within the appeal decision dated 12th November 2021 the Inspector concluded at Paragraph 56 that:

"Consequently, the Council cannot demonstrate a five-year supply of housing land and I consider the Council's housing land supply position to lie in the region of between about 4.7 and 4.9 years."

This conclusion was reached as a result of the removal by the Inspector of the whole or part of the contribution from four contested sites in the Council's

deliverable supply: Land east of Broad Road; Towerlands Park; Land between Long Green and Braintree Road; and Land North of Oak Road.

The Council has reviewed its housing supply position in light of the Station Road, Earls Colne decision, which is not binding. Notwithstanding the Inspector's conclusions, the Council maintains that it can demonstrate in excess of a five-year supply of deliverable housing sites.

Concluding on a site's deliverability – and specifically whether there is a realistic prospect that housing will be delivered within five years – is a matter of planning judgment. The Courts have confirmed that for there to be a realistic prospect there does not need to be certainty or even probability that sites will deliver within 5 years. The Council considers that, in a number of respects, the Inspector took an overly pessimistic approach to deliverability in light of the evidence available at the date of the hearing.

Furthermore, since the hearing date, further progress has been made on number of the sites which the Inspector chose to discount from the supply, and therefore the evidence of deliverability has moved on from that which was available to the Inspector.

Having undertaken the review, and on the basis of the latest available evidence, the Council can demonstrate a 5.27 year supply of housing (the slight reduction from 5.34 years is as a result of removing a couple of small sites where permission has expired, and a reassessment of the trajectory on Land east of Broad Road).

As such the Council considers that it can still demonstrate 5 year deliverable supply of housing land and therefore the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply.

In addition, the current supply position does not include sites which are proposed to be allocated within the Section 2 Plan but do not yet have planning permission or a resolution to grant planning permission.

These allocations without permission are being tested at the Section 2 Plan Examination. Once the Section 2 Plan is adopted, these sites will become adopted allocations and greater weight can be given to them. It will also improve the prospects of these being included within the deliverable supply, where there is clear evidence that there is a realistic prospect that housing will be delivered on the site within five years.

## SITE ASSESSMENT

### Location and Access to Services and Facilities

Policy RLP2 of the Adopted Local Plan states that 'new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside of these areas countryside policies will apply'. As stated

above, the site lies outside of a village / town boundary and is therefore within the countryside.

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'. Policy CS7 of the Core Strategy states that the Council will work to improve accessibility, to reduce congestion and reduce the impact of development upon climate change.

The issue of whether this is an appropriate location for new housing was considered by Officers at the outline planning application stage. It was concluded that overall the site is located in a sustainable location on the edge of Finchingfield which provides a limited range of community facilities and services (public houses; Post Office; tea rooms; a hall; a primary school; and a doctor's surgery). Equally there is an hourly bus service into the main town of Braintree. This view was not disputed by the Inspector on assessing the appeal proposals.

Officers consider that the site remains in a location that has acceptable access to services and facilities. Given the location of the site, it is not isolated and would not conflict with the requirements of Policy CS7 of the Core Strategy and this weighs in favour the proposal in the overall planning balance.

#### Layout, Design and Appearance

Paragraph 126 the NPPF highlights that the creation of high quality buildings, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 130 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

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.



Policy SP7 of the Section 1 Plan states that all new development must meet high standards of urban and architectural design and provides a number of place making principles.

The development consists of 11 dwellings set back behind an undeveloped frontage buffer which will be landscaped and retained accordingly. This meets with the parameter plan on the earlier outline permissions. This approach remains supported, and will ensure that built form will not appear unduly prominent on the approach into the village.

Beyond the frontage landscaped area, the proposed dwellings would be sited in a curved layout set around a central landscaped area. Officers are content that this layout of development, although would result in a new arrangement of built form for Finchingfield, would be sympathetic to the varied grain of development and siting of dwellings within the locality. It would create a group of dwellings with its own character and identity, whilst still providing a unifying approach with the village by way of the detailed design of dwellings and choice of materials.

Furthermore in regards to layout, future occupiers would benefit from the provision of open space, formed within an internal area to the front of the dwellings, and within a secondary landscaped area to the site frontage. These result in high quality provision to meet the needs of the development.

In terms of scale for the proposed dwellings, the two plots closest to Brent Hall Road (Plots 10 and 11) are of 1½ storey, whereas the remainder are of 2 storey scale (with some achieving accommodation within the roofspace creating what could be described as 2½ storey). The variation in scale provides interest across the site whilst the reduced height for the dwellings nearest to Brent Hall Road assist in the dwellings integrating into the site.

The detailed design of the dwellings has been subject to numerous variations throughout the course of the application and Officers and the agent's team have worked proactively to secure a high quality scheme. Each dwelling or semi-detached pair is of an individual design, differing in scale and form. Garages too are individually designed. This is a deliberate design approach to reflect the varied and irregular design of dwellings within the locality and is supported by Officers. Each dwelling includes high quality architectural and fenestration detailing within its design, and would contribute to the overall quality of the development. The chosen palette of materials include render (various colours, some of which include pargeing), brickwork and cream weatherboarding, with roofing materials to include clay roof tiles, slate, and lead lined dormers. All of these are considered appropriate for Finchingfield. A condition is imposed to require samples of these and details of the pargeing to secure the delivery of a high quality finish.

In terms of amenity for future occupiers, internally the dwellings will be provided with accommodation in accordance with the Nationally Described Space Standards (NDSS), whilst externally private gardens are provided with amenity space in accordance with the Essex Design Guide (EDG).

## Heritage

The site lies within the designated Conservation Area for Finchingfield. In relation to development within Conservation Areas, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

As noted by the Inspector on the allowed outline appeals, there is a lack of inter-visibility between the site and the historic core of Finchingfield. The latter is only revealed as Brent Hall Road continues past the site and descends the side of the valley. It is only at this further point that the picturesque centre of the village is apparent. The significance of the Conservation Area lies strongly in the character and appearance of this village core, where the historic and well-preserved pattern of traditional buildings are grouped around the village greenspaces framing the centre-piece of a bridged stream with duck pond.

The Council's Historic Buildings Consultant has been consulted on the application and raises no objection to the proposed development. On this site itself, the retention and enhancement of the tree and hedge boundary to the site is appropriate, as is the proposed landscaped open space which would be a positive aspect of the development. Furthermore, it is anticipated that high quality materials and fine craftsmanship are to be used for brickwork, boundary walls, timber windows, doors and other joinery, and this will be secured via condition.

Overall, it is considered that the layout and detailed design of the development would not have a detrimental impact on the significance and character of the Finchingfield Conservation Area.

## Landscape Impacts

The principle of the development was of course already considered in full on the earlier allowed schemes, and this included the impact in landscape terms. In allowing the appeals, the Inspector noted that given the relatively enclosed character of this site, with built development extending southwards from the road along the east and west boundaries, the proposals would not amount to an abrupt or obtrusive incursion into the open agrarian landscape.

The lower density of housing would be appropriate to the immediate surroundings at this western edge of the village. Equally, the proposed layout of the dwellings; the siting of the open space; and the proposed landscaping scheme, have been designed to be sympathetic to the general character and pattern of the surrounding development. The development would be appropriate to its context, integrating acceptably into the built form of the village.

The application has been submitted with the previously submitted Landscape and Visual Appraisal (LVA) which supported the earlier outline applications. In

addition, a Landscape and Visual Appraisal Review also now supports the application.

The new proposals are broadly in line with the parameter plans from the outline planning permissions, albeit in a different internal layout arrangement. The revised layout is not considered to have any significant change to the findings in the original landscape and visual appraisal.

The development would be quite clearly contained within the existing developed fabric of the settlement, such that the housing would not sprawl haphazardly into open countryside. Overall, the development would be in keeping with the character of the area in the vicinity of the site and would not notably harm either the rural setting of the village or the character of Brent Hall Road.

An updated Arboricultural Impact Assessment (AIA) has been submitted to review the on-site landscape impacts from the development. The AIA confirms that there are no trees on site, but a large number of hedges and trees on the eastern, southern and western boundary. The layout of development creates no incursions into the crowns or root protection areas of the boundary trees.

The frontage of the site includes a 'patchy hedge', most of which is outlined within the AIA to be a very low quality. The proposed soft landscaping scheme includes the retention of the existing hedge and strengthening with gaps infilled with native planting. This is a positive aspect of the development and would improve the appearance of the site on the approach to the Village. A detailed soft landscaping scheme, (which covers the proposal for the landscaping of the frontage open space and approach for the wider site), has recently been submitted to support the application. Officers are consulting with the Councils Landscaping Section on the acceptability of the details. As this is not yet agreed, a condition is imposed to secure such details. However, if a response is received from Landscape Services before the Committee, confirming that the soft landscaping is acceptable, this can be altered to be a compliance condition. Officers will update Members prior to, or at Planning Committee itself in respect of this matter.

### Impact on Neighbouring Residential Amenities

One of the core principles set out in the NPPF is that planning should 'always seek to secure a high quality of design and a good standard of amenity for all existing and future occupants'. This is supported by Policy RLP90 of the Adopted Local Plan which states that 'there shall be no undue or unacceptable impact upon the amenity of any nearby residential properties'. The emerging plan has similar objectives.

The development has been designed with compliance to the neighbouring amenity standards set out within the Essex Design Guide (EDG). Along the eastern boundary, the gardens of Plots 8, 9, 10 and 11 are around a depth of 15 metres, with the closest rear façade around 32 metres to the nearest point of the dwelling of Hill House. Given these distances, and the existing

established landscaping to the application site and the neighbouring site, there would be no unacceptable overlooking or other amenity impacts. Also to the eastern boundary, Plot 7 would be in excess of 19 metres to the boundary and over 40 metres distance with The Vicarage and Hunters Lodge, which would prevent unacceptable harm to neighbouring amenity.

Along the western boundary, Plot 1 has a more modest depth of garden, measuring 13.5 metres. This dwelling, would however, be around 27 metres from Great Wincey Farmhouse. The 1st floor of plots 2, 3 and 4 are 20 metres to the western boundary, and around 26 metres at the closest point to the nearest residential dwelling beyond. Due to the distances and landscaping, the majority of which is to be retained to this boundary, there would be no unacceptable overlooking, loss of outlook or similar.

Other existing dwellings in the locality are at a distance that would be unaffected by overlooking, or similar. Those to the north on Brent Hall Road would be at least 40 metres away. Despite any land level changes, due to these distances and the internal layout and orientation of the nearest dwellings, there would be no adverse impact to these neighbours amenity from overlooking, loss of light or similar. A condition can be imposed regarding the need for a construction management plan to be secured which will also include hours of working, which can reduce adverse impacts to neighbours during the construction phase.

### Highway Considerations

As per the indicative proposals shown at the outline submission stage, the proposals include a dedicated new vehicular access point to serve the development from Brent Hall Road. A Transport Statement forms part of the supporting evidence with the application.

The application has been reviewed by the Highway Authority. They raise no objections to the development. On this basis, the proposed access to serve the development is considered to be acceptable from a highway safety perspective. Acceptable visibility splays to the east and west can be achieved.

The proposal also includes a new dedicated pedestrian access onto Brent Hall Road (as also envisaged at the outline planning application stage). This would encourage and enable future occupiers to access the centre of Finchingfield and to facilities on foot and via a more direct route, and is a positive aspect in terms of the sustainability credentials of the development.

The internal road and shared surface is acceptable and provides appropriate provision. Internally the site provides for allocated parking for each dwelling. Plots 8-11 are allocated 2 driveway spaces, whereas Plots 1-7 are provided with a garage(s) and driveway parking. All the dwellings are provided parking to meet with the standards set out within the Councils Adopted Parking Standards.

## Ecology

The application has been submitted with a Preliminary Ecological Appraisal (PEA) (Richard Graves Associates Ltd April 2021), and Outlier Badger Settle Monitoring File Note (Iceni Ecology, November 2021), relating to the likely impacts of development on designated sites, protected and priority species & habitats. Officers are satisfied that sufficient ecological information is currently available for determination, and which provides certainty for the LPA of the likely impacts on protected and Priority species.

The mitigation measures identified within both of the above reports should be secured and implemented in full in order to conserve protected and priority species, particularly bats, reptiles, badgers and nesting birds. Furthermore, as per the PEA, a Wildlife Friendly Lighting Strategy should be implemented to avoid impacts to foraging and commuting bats. Conditions are secured to provide for the mitigation and lighting strategy.

The application seeks to retain and enhance the boundary vegetation and proposes additional tree planting, a new native hedgerows and wider soft planting, which will provide reasonable biodiversity enhancements – again to be secured via condition.

## Habitat Regulations Assessment (HRA / RAMS)

The site lies outside of any zone of influence and thus is not a consideration in this application.

## Flood Risk and Drainage

The application submission is supported with a Flood Risk Assessment (FRA) and Drainage Strategy. Essex County Council as the Local Lead Flood Authority has reviewed this and are satisfied that the application is acceptable subject to conditions. Flooding and drainage matters are therefore not considered to be a constraint to development and the proposed development is therefore considered to be fully acceptable in this respect.

## PLANNING OBLIGATIONS

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

### Affordable Housing

Policy CS2 of the Core Strategy states that on development of this size affordable housing will be directly provided on site with a target of 40%. The application complies with this and proposes Plots 8, 9, 10 and 11 as affordable. These are all 2 bed, 4 person dwellings. Two units would be for affordable rent and two would be available for shared ownership.

The Council's Housing Enabling Officer has reviewed this and is content with the provision and tenure mix. In terms of the siting and grouping of the affordable housing provision, the circular arrangement also allows for all tenures to be treated equitably and for an integrated community to be achieved.

### Open Space

Policy CS10 of the Core Strategy states that the Council will ensure that there is good provision of high quality and accessible green space. New developments are required to make appropriate provision for publicly accessible green space or improvement of existing accessible green space in accordance with adopted standards. The Council's Open Space SPD sets out further details on how these standards will be applied.

The development adequately provides for on-site amenity green space. However an index linked financial contribution is sought for outdoor sport (£8,913.52), equipped play (£8,803.11) and allotments (£331.17).

### PLANNING BALANCE AND CONCLUSION

As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located outside of a designated village envelope/town development boundary and is therefore located within the countryside, where new development is 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. There is therefore a presumption that the application should be refused unless there are material reasons to grant planning permission.

Paragraph 60 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need. In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.27 years against its housing need. As such the Council is presently meeting this objective.

Until the adoption of the Section 2 Plan, the sites which are proposed to be allocated but do not yet have planning permission or a resolution to grant planning permission, have not been included within the 5 Year Housing Land Supply calculation.

As such, although the Council can currently demonstrate a 5 Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the 5 year threshold.

As the Council can demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).

In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1 and SP3 of the Section 1 Plan, Policies RLP2 and RLP95 of the Adopted Local Plan and Policy CS5 of the Core Strategy.

Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered that both policies are consistent with the NPPF and can be afforded full weight. Neither are out-of-date.

Whilst the primary purpose of Policy RLP2 of the Adopted Local Plan is to restrict development to development boundaries, and thus resist it in the countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight. The aims of Policy CS5 of the Core Strategy are much wider as the policy seeks to amongst other things, protect and enhance the landscape character and amenity of the countryside. As it is effectively seeking to

preserve the intrinsic character and beauty of the countryside – an objective contained within the NPPF – it is considered that this policy is not out-of-date and can be given significant weight.

Policy RLP95 seeks to preserve, and encourage the enhancement of, the character and appearance of designated Conservation Areas and their settings. In respect of conserving and enhancing the historic environment, the NPPF states at Paragraph 199 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), irrespective of whether this amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraphs 201 and 202 then set out the criteria for circumstances where a proposal would lead to substantial harm/total loss and less than substantial harm respectively. Policies RLP95 pre-dates the NPPF and lack the balancing exercise contained in the Framework which requires that the identified harm in the less than substantial category should be weighed against the public benefits of the proposal. The policy is considered to be partially consistent with the NPPF, and therefore not out-of-date and accordingly can only be afforded reduced weight. However, as set out above, the Council also have a statutory duty when assessing planning applications that affect Listed Buildings and Conservation Areas and although the Development Plan policies carry reduced weight it is clear that significant weight must be attributed to fulfilling these statutory duties.

When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.

Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untilted) planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.

In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. 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).

### **Summary of Adverse Impacts**

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

#### Conflict with the Development Plan

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led”.

The proposed development would conflict with Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy with regard to the Council's spatial strategy as it proposes development outside of defined development boundaries and within the countryside.

However, outline planning permission has already been granted on the site for residential development. Although this is a full application and not a reserved matters application, the principle of development has already been established by the outline planning permissions which have been granted. These permissions remain extant and therefore represent a material planning consideration which must be given significant weight. Any conflict with the Development Plan in terms of the principle of development is therefore attributed no weight.

#### Other

There are no other adverse impacts identified with the proposal.

### **Summary of Public Benefits**

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

### Delivery of Market and Affordable Housing

The development will deliver 11no. dwellings which will assist the Authority with housing delivery. However this need is not unmet and given the scale of development only limited weight is attributed to it.

The provision of 4no. affordable dwellings is a positive aspect of the development and is afforded moderate weight.

### Location and Access to Services and Facilities

The site is located in a sustainable location on the edge of Finchingfield which provides a limited range of community facilities and services and equally there is an hourly bus service into the main town of Braintree. Moderate positive weight is attributed to this.

### Economic and Social Benefits

There is an economic benefit, due to the creation of jobs during construction and the contribution that the occupiers of the new dwelling would make to the local economy. There would also be a social benefit, due to the creation of the new dwellings. However, the application proposes only 11 dwellings and this lessens the positive weight that can be assigned.

### **Summary of Neutral Factors**

There is no identified harm in terms of residential amenity, ecology, drainage and flood risks, landscape matters or highways. These matters are considered neutral in the planning balance.

The S106 contributions are required to mitigate the impacts of the development and therefore have neutral impacts in the planning balance.

### Planning Balance

When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal outweigh the lack of any identified harms. Consequently it is recommended that planning permission is granted for the proposed development.

Notwithstanding the above, even if the 'tilted balance' was engaged, it is considered that the adverse impacts would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be recommended that planning permission be granted for the proposed development.

## 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

|                    |                  |
|--------------------|------------------|
| Refuse Information | Plan Ref: 213.03 |
| Tenure Plan        | Plan Ref: 216.03 |
| Garage Details     | Plan Ref: 232.00 |
| Parking Strategy   | Plan Ref: 217.03 |
| Garage Details     | Plan Ref: 235.00 |
| Garage Details     | Plan Ref: 234.00 |
| Garage Details     | Plan Ref: 233.00 |
| Garage Details     | Plan Ref: 231.00 |
| Garage Details     | Plan Ref: 230.00 |
| Site Plan          | Plan Ref: 200.19 |
| Proposed Plans     | Plan Ref: 203-06 |
| Location Plan      | Plan Ref: 001-00 |
| Proposed Plans     | Plan Ref: 201-05 |
| Proposed Plans     | Plan Ref: 202-04 |
| Proposed Plans     | Plan Ref: 206.04 |
| Proposed Plans     | Plan Ref: 204-05 |
| Proposed Plans     | Plan Ref: 205-05 |
| Proposed Plans     | Plan Ref: 207-03 |
| Proposed Plans     | Plan Ref: 208-03 |
| Street elevation   | Plan Ref: 212-03 |
| General            | Plan Ref: 218-01 |

- 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 No above ground development shall commence until samples of the materials to be used on the external finishes of the buildings hereby permitted, together with details of the colour of render and pargeting

design and means of installation, have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details and permanently retained as such.

**Reason**

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

- 4 No development shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
- A full topographical site survey showing existing levels including: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals; and levels of adjoining buildings and their gardens;
  - Full details of the proposed finished floor levels of all buildings, proposed garden levels, proposed levels along all site boundaries, and proposed levels for all hard and soft landscaped surfaces.
- The development shall only be carried out in accordance with the approved details.

**Reason**

To avoid the excessive raising or lowering of ground levels and therefore any building(s) within the site which may lead to unneighbourly development with problems of overlooking and loss of privacy. To ensure that the development does not prejudice the appearance of the locality. The levels information is required prior to the commencement of development to ensure that the correct site levels are achieved from the outset of the construction phase

- 5 No occupation of any dwelling shall take place until the following have been provided or completed:
- a) The site access has been provided as shown in principle on submitted Drawing No. 95 - 0009A01 within the Transport Statement; and
  - b) The provision and implementation of a Residential Travel Information Pack per dwelling, to encourage sustainable transport provision, (to include six one day travel vouchers for use with the relevant local public transport operator).

**Reason**

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

- 6 All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Richard Graves Associates Ltd April 2021), and Outlier Badger Sett Monitoring

File Note (Iceni Ecology, November 2021). This may include the appointment of an appropriately competent person e.g. an ecological clerk of 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 approved details.

Reason

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

- 7 Prior to the installation of any external lighting at the site, a lighting design scheme to protect amenity, the night-time landscape and biodiversity shall be submitted to and approved 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

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

- 8 A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following:
  - a) Purpose and conservation objectives for the proposed enhancement measures;
  - b) Detailed designs to achieve stated objectives;
  - c) Locations of proposed enhancement measures by appropriate maps and plans;
  - d) Persons responsible for implementing the enhancement measures;
  - e) Details of initial aftercare and long-term maintenance (where relevant).The works shall be implemented in accordance with the approved details and thereafter retained in that manner.

Reason

To enhance Protected and Priority Species/habitats and allow the LPA to

discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

- 9 No occupation of the dwellings shall occur until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed.
  - b) Ecological trends and constraints on site that might influence management.
  - c) Aims and objectives of management.
  - d) Appropriate management options for achieving aims and objectives.
  - e) Prescriptions for management actions.
  - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
  - g) Details of the body or organisation responsible for implementation of the plan.
  - h) Ongoing monitoring and remedial measures.

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

#### Reason

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

- 10 No works, except demolition, shall commence until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme should include but not be limited to:
- Verification of the suitability of infiltration of surface water for the development.
- This should be based on detailed infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753. They should be conducted in all locations infiltration is proposed and should be at similar depths. Groundwater monitoring should also be conducted within the winter months to provide the highest annual average groundwater level.

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

#### Reason

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

- 11 No development shall commence until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented as approved.

#### Reason

The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

- 12 No occupation of the dwellings shall occur until a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the

maintenance activities/frequencies, has been submitted to and agreed in writing by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

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

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

Reason

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

- 14 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwelling-house, as permitted by Class A of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the local planning authority.

Reason

In order that the Local Planning Authority may exercise control over any proposed future extensions in the interests of the quality of the overall design of the development and in the interests of amenity of the rural edge of the settlement and the setting of the Conservation Area.

- 15 A) No development, including any preliminary groundworks or demolition, shall commence until a Written Scheme of Investigation (WSI), which shall include details for a programme of archaeological investigation, has been submitted to and approved in writing by the Local Planning Authority.  
B) No development, including any preliminary groundworks or demolition, shall commence until the approved WSI as required by this permission has been fully implemented and a report of the findings including any mitigation strategy and/or preservation strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved mitigation strategy and / or preservation strategy.  
C) Within six months of the completion of the fieldwork in connection with the WSI a post excavation assessment of the findings shall be submitted to an appropriate depository and the Local Planning Authority shall be



notified in writing. This will result in the completion of post excavation analysis, preparation of a full site archive and report, and publication report.

Reason

To enable full investigation and recording of this site of archaeological importance. The details are required prior to the commencement of development to ensure that the site is appropriately recorded prior to loss of any details of archaeological significance

- 16 Prior to installation, details of all windows and doors shall be submitted to and approved in writing by the Local Planning Authority. Development shall only be implemented in accordance with the approved details and permanently retained as such.

Reason

To enhance the appearance of the development and ensure it does not prejudice the appearance of the locality.

- 17 No occupation of the dwellings shall occur until both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- Means of enclosure and retaining structures and all boundary treatments;
  - Hard surfacing materials (colour and type of material for all hard surface areas and method of laying, together with an implementation programme);
  - Renewable energy installations where relevant;
  - Soft landscaping works and implementation timetables. (This shall include plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, and written specifications including cultivation and other operations associated with plant and grass establishment).
- The hard and soft landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

Reason

To assimilate the development into the locality and to provide a high quality development and appropriate amenity for future occupiers.

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

Reason

In the interests of neighbouring amenity.

- 19 No development shall commence until works for the disposal of sewage

have been provided on the site to serve the development hereby permitted, in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason

To prevent environmental and amenity problems arising.

- 20 No development shall occur until a comprehensive survey (Phase Two) has been undertaken to assess the nature and extent of any contamination on the site. A copy of the survey findings together with a remediation scheme (if necessary) to bring the site to a suitable condition in that it represents an acceptable risk shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Further advice is available in the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers'. Such agreed measures shall be implemented and completed prior to the commencement of development hereby approved. Notwithstanding the above, should contamination be found that was not previously identified or not considered in the remediation scheme agreed in writing with the Local Planning Authority, that contamination shall be made safe and reported immediately to the Local Planning Authority. The site shall be re-assessed in accordance with the above and a separate remediation scheme shall be submitted to and agreed in writing with the Local Planning Authority. Such agreed measures shall be implemented and completed prior to the first occupation of any parts of the development. The developer shall give one-month's advanced notice in writing to the Local Planning Authority of the impending completion of the remediation works. Within four weeks of completion of the remediation works a validation report undertaken by competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site (or beneficial occupation of the office building hereby permitted) until the Local Planning Authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that the remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with the Local Planning Authority.

Reason

To properly provide for contamination in the interests of environmental matters and amenity of future occupiers.

- 21 Prior to the installation of any meter cupboards on the frontage elevations of the dwellings hereby approved, details of the location, design and colour, shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details and shall be permanently retained as such.

Reason

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

INFORMATION TO APPLICANT

1 If the development for which you have been granted planning permission involves the allocation of a new postal number(s) would you please contact the Planning Department, Causeway House, Braintree, CM7 9HB. Tel Braintree 552525, upon commencement of the development to enable the early assignment of a postal number(s).

2 You are advised that prior to any works taking place in the highway, the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works. All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

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## Appeal Decisions

Hearing Held on 19 November 2019

Site visit made on 19 November 2019

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

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### Appeal A: APP/Z1510/W/19/3226390

Land west of Hill House, Brent Hall Road, Finchingfield, Essex CM7 4JZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by the Harding Group against the decision of Braintree District Council.
  - The application Ref 18/01442/OUT, dated 3 August 2018, was refused by notice dated 14 February 2019.
  - The development proposed is outline planning permission, with all matters reserved for the erection of 10 dwellings.
- 

### Appeal B: APP/Z1510/W/19/3226391

Land west of Hill House, Brent Hall Road, Finchingfield, Essex CM7 4JZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by the Harding Group against the decision of Braintree District Council.
  - The application Ref 18/01443/OUT, dated 3 August 2018, was refused by notice dated 14 February 2019.
  - The development proposed is outline planning permission, with all matters reserved for the erection of 16 dwellings.
- 

## Decisions

### Appeal A

1. Appeal A is allowed and outline planning permission is granted with all matters reserved for the erection of 10 dwellings at land west of Hill House, Brent Hall Road, Finchingfield, Essex CM7 4JZ in accordance with the terms of the application, Ref 18/01442/OUT, made on 3 August 2018, subject to the conditions set out in the Schedule attached to this decision.

### Appeal B

2. Appeal B is allowed and outline planning permission is granted with all matters reserved for the erection of 16 dwellings at land west of Hill House, Brent Hall Road, Finchingfield, Essex CM7 4JZ in accordance with the terms of the application, Ref 18/01443/OUT, made on 3 August 2018, subject to the conditions set out in the Schedule attached to this decision.

## Procedural Matters

3. As set out above there are two appeals on this site. They differ only in Appeal A relating to a proposal for 10 dwellings and Appeal B for 16. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two appeals together, except where otherwise indicated.
4. Both proposals were made in outline, with all detailed matters reserved for later consideration. I have dealt with the appeals on this basis, taking into account also all the supporting evidence and illustrative material submitted.
5. Completed Section 106 planning agreements were provided at the Hearing. These provide for 40% affordable housing in both cases. Consequently, the **Council's second reason for** refusal over the lack of affordable housing, in each case, now falls away. In addition to the affordable housing, these agreements secure the provision and management of open spaces in both proposals and financial contributions towards outdoor sport, allotments and play space. These respective agreements are material considerations in each of the cases and I deal with the matters provided for later in this Decision.

## Main Issue

6. The main issue, common to both appeals, is the effect the housing proposed would have on the character and appearance of the village, including that of the Finchingfield Conservation Area (CA).

## Reasons

7. As entirely outline proposals, the effects of the alternate schemes for 10 and 16 dwellings are broadly the same in respect of character and appearance. The site of the appeals is a square agricultural field. The land fronts onto the road providing the main entrance to the village from the west. The field is towards the edge of the built-up settlement and has visually a quite enclosed appearance. This is by virtue of its level nature, the presence of trees and hedging along the road frontage and the existence of low-density residential development to each side.
8. There is a small close of modern detached houses immediately facing the site on the other side of Brent Hall Road. This existing housing opposite marks the clear edge of the built-up village on that side of the road, beyond which an expanse of farmland then provides for a more open landscape. By contrast, the appeal site is less open with the housing beyond, running alongside its western boundary, providing the clearly defined outward edge to the built-up village on this side of the road.
9. Given the relatively enclosed character of this site, with built development extending southwards from the road along the east and west boundaries, neither proposal would amount to an abrupt or obtrusive incursion into the open agrarian landscape. I am satisfied, in this regard, that in principle either scheme could be designed such that it reflects the general character and pattern of the surrounding development, subject to the controls available through reserved matters consent.
10. I find no harm in respect of either development through having any materially adverse effect on the transition from open landscape into the historic core of

the settlement. In my view, that transition from open farmland to the beginning of the developed village is already apparent on reaching this site.

11. There is a lack of inter-visibility between the site in question and the historic core of Finchingfield. The latter is only revealed as Brent Hall Road continues past the appeals site and descends the side of the valley. It is only at this further point that the picturesque centre of the village is apparent. The significance of the CA lies strongly in the character and appearance of this village core, where the historic and well-preserved pattern of traditional buildings are grouped around the village greenspaces framing the centre-piece of a bridged stream with duckpond.
12. There is more recent, sometimes higher density, development away from this historic centre. This is along rising land to its sides where the settlement has expanded beyond its original core. The appeal schemes would reflect this pattern and either would provide the comparatively lower density of housing, appropriate to the immediate surroundings at this western edge of the village. As such, either scheme would be appropriate to its context, integrating acceptably into the built form of the village. The result would be a consolidation of residential development within the present built-up confines, with neither proposal impinging on the legibility of the historic core to the village.
13. Any development inevitably involves change. However, this in itself does not necessarily equate to harm. The change associated with either of the relatively modestly-sized proposals would not amount to harm. The development would be quite clearly contained within the existing developed fabric of the settlement, such that the housing would not sprawl haphazardly into open countryside. Either proposal would provide an appropriate consolidation of housing on this side of the village, in keeping with its developed form, preserving its overall character and appearance including that of its picturesque historic centre.
14. In relation to development within conservation areas, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the CA. The proposals include landscaping and a buffer zone along the roadside edge. The vehicular and pedestrian access to the site would result in some opening up of the site frontage. However, the overall appearance of either scheme would be softened by the buffer area and planting. Subject to appropriate design, scale and layout, neither proposal would have an unduly urbanising effect or be visually out of keeping in this location. I consider therefore, that neither proposal would be out of character with the village generally or harm the character, appearance or significance of the CA, which would be preserved.
15. Therefore, both proposals would comply with Policy CS9 of the Core Strategy<sup>1</sup> (CS) insofar as respecting and responding adequately to the local context of the CA and its setting. There is no conflict either with saved policies RLP90 and RLP95 of the Local Plan Review<sup>2</sup> (LPR) which seek to ensure that development is sensitive to the need to preserve the character and appearance of the CA. Whilst giving emerging Local Plan<sup>3</sup> (eLP) policies LPP50, LPP55, LPP56 and

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<sup>1</sup> Braintree District Council Local Development Framework Core Strategy – 19 September 2011

<sup>2</sup> Braintree District Local Plan Review – adopted July 2005.

<sup>3</sup> Braintree District Council Local Plan Publication Draft June 2017

LPP60 more limited weight, neither proposal would conflict with these insofar as they seek to ensure that new development preserves the character and appearance of areas and heritage assets.

16. Moreover, **neither proposal would conflict with the Government's aims for the planning system to conserve and enhance the historic environment, as set out in Chapter 16 of the National Planning Policy Framework (the Framework).**

#### Benefits of the schemes

17. Greater in the case of the larger Appeal B scheme, socio-economic benefits would flow from both the proposals, including construction spend, the generation of jobs over the build out period, as well as indirect revenue to the supply chain. I recognise that the benefits to the construction industry would be time limited and there is no suggestion that local facilities are struggling and would thus benefit significantly from increased patronage. Accordingly, whilst welcome, I therefore afford these benefits moderate weight overall.
18. Finchingfield is a picturesque village, which attracts large numbers of visitors that in turn help support a good range of facilities for a settlement of this size. The housing proposed would generate increased local spend and further use of these services and facilities without harming the qualities that the village holds and which in turn attracts visitors and supports these businesses. That is a benefit that attracts appreciable weight.
19. **Notwithstanding the Council's asserted position** that it can currently demonstrate a five year supply of housing land, the provision of additional homes on the site is a benefit of both schemes in light of the national housing crisis, with provision of 40% affordable housing carrying considerable positive weight.
20. Future occupiers of either scheme would have access to Finchingfield Church of England Primary School. The school confirms that without new development in the village providing a larger intake of pupils, it could be at risk within a few years as it currently has a very low number of children attending. That is a consideration attracting no more than limited weight, given the likely further child numbers involved with either proposal.
21. The proposed developments include a new area of public open space on land that is not publicly accessible, secured via the planning agreements (as set out below). That provision would also benefit existing local residents. However, since the purpose of the obligations secured is primarily to mitigate harm arising from the development proposed, I am not persuaded that it is a consideration that attracts any more than limited weight.
22. Biodiversity benefits would be achieved through landscaping and landscape management, a consideration that attracts moderate weight.
23. Reference is made to income for the Council from the New Homes Bonus as a benefit. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. However, New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. I am mindful, in this regard, that the planning guidance makes it clear that it would not be appropriate to make a decision based on the potential for a development to raise money for a local authority. Accordingly,

whilst the Bonus is a material planning consideration, it is not one to which I attach positive weight.

24. Increased Council tax receipts are also mentioned as a benefit. However, since the development would result in a corresponding increase in demand on local services and infrastructure, again that is not a consideration to which I attach positive weight. Other aspects cited in support of the proposals by the appellant relate to an absence of harm, rather than considerations that provide positive advantages.

#### Other Matters

25. Interested parties raised other concerns both at the application and appeal stages and at the Hearing. Brent Hall Road narrows on the approach to the village from the appeal site and, lacking a footpath, I accept is not ideal from a road safety point of view. However, these highway characteristics would influence road user behaviour, instilling care and caution, and are not uncommon in rural situations. The local highway authority has not raised an objection to either proposal. In all, there is no substantiated evidence that leads me to the view that the appeals should fail from a highway safety point of view.
26. Concerns have been raised over further hardstanding areas exacerbating the risk of flooding from the watercourse running through the village centre. There is not the evidence for me to resist the principle of either housing proposal on these grounds, although runoff from the developments could be adequately addressed by a condition requiring agreement over the surface water drainage arrangements.
27. Concerns over foul sewerage capacity in the village have also been raised and conditions might similarly be applied to each scheme for suitable arrangements to be provided.
28. All detailed matters are reserved with both proposals. Subject to these, the site would be able to accommodate either 10 or 16 dwellings without having a materially harmful impact on the living conditions of any existing neighbouring occupiers in respect of privacy, loss of light or undue disturbance. There would be some disruption during the construction phase. However, this is inevitable with any development project and would be for a limited period.
29. There had previously been some significant trimming works to the trees and hedging along the frontage of the site of these appeals, and the formation of an access, which has caused local concern. I have looked at the before and after photographs submitted. However, these concerns would not provide adequate grounds for rejecting either proposal, with landscaping and means of access being details to be agreed as reserved matters. This might then provide an avenue for reinforcing the greenery at the front of the site.
30. Neither is there sufficient reason for me to reject the principle of housing on the site due to harm to biodiversity. The requirement for landscaping to be agreed, and the potential for any wildlife interest to be protected and enhanced by means of conditions, could help remedy and restore biodiversity interest, particularly with the open space and frontage buffer zone which form part of both proposals.



## Section 106 agreements

31. The section 106 agreements between the site owners and the Council in respect of both appeal proposals have been considered. They secure 40% affordable housing and financial contributions towards outdoor sport, allotments and play space, as well as cementing the provision and management of the open space areas in both proposals. I have considered both agreements against the advice in paragraph 56 of the Framework and the statutory requirements of Regulations 122 and 123 of the Community Infrastructure Levy Regulations. Together, these require that planning obligations should only be accepted where they are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to it. I am content that both agreements satisfy these tests and therefore are material planning considerations in deciding these appeals.

## Planning Balance

32. Whilst I have found no conflict with CS Policy CS9 or with saved LPR policies RLP90 and RLP95, the proposals relate to land situated outside the development boundary for Finchingfield as defined in both the current and emerging development plans. In both cases, there would therefore be conflict with CS Policy CS5, LPR Policy RLP2 and eLP Policy LPP1, which together and among other things, seek to focus new development within settlement boundaries and restrict that outside to where a countryside location is required. The restriction imposed by settlement development boundaries on housing growth in villages such as Finchingfield, broadly supports the development plan objective of steering most development to the main town of Braintree. This strategy remains generally consistent with the overall aim of the Framework to secure sustainable development, including by focusing significant amounts of housing in locations which achieve this aim, making effective use of infrastructure and protecting the countryside.
33. In my view, however, the restriction on development close to but outside of village development boundaries is out of step with the more recent Framework policy for rural housing contained in paragraph 78. This states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Indeed, the Council itself acknowledges that to be found sound, its emerging plan will result in a higher housing land requirement. Therefore, in this context, the Council accepts that **only 'more than moderate but less than significant weight' be attached to** CS Policy CS5 and LPR Policy RLP2, given that they serve to restrict the supply of housing land.
34. Paragraph 73 of the Framework requires that local planning authorities identify and update annually a supply of specific deliverable sites sufficient to provide a **minimum of five years' worth of housing against local housing need where**, as in the case of Braintree, strategic policies are more than five years old. A failure to demonstrate a five year supply would be grounds for engaging the so called 'tilted' balance implicit in paragraph 11 of the Framework.<sup>4</sup> In this

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<sup>4</sup> This is where the application of policies in this Framework that protect areas or assets of particular importance provides no clear reason for refusing the development proposed, granting permission unless any adverse impacts

regard, as updated at the Hearing, **the Council's position** was that it can demonstrate a 5.15 year housing land supply. That is a fragile margin, with the evidence of the appellant indicating that a slippage of just 140 dwellings over the five year period would mean that the Council could not demonstrate the required supply. Whilst there was dispute, in this regard, over likely housing starts and annual build out rates, **I shall adopt the Council's figures in terms of its five year land supply.** That is not to be taken as indicating that I necessarily agree with the figure, rather I adopt that position for the purpose of carrying out the planning balance. As such, the so-called '**tilted' balance is not engaged.** That leaves the application to be determined in accordance with the development plan unless other material considerations indicate otherwise.

35. In coming to a view on this matter, Finchingfield has a number of services and facilities within walking and cycling distance of the site, including a primary school, village shop/ post office, a petrol station, several public houses, village hall, tea rooms, GP surgery, recreation ground and a restaurant. The settlement also has bus services to adjacent towns, such as Braintree. In common with many rural villages, future occupiers of both these proposals would be reliant to some extent on a private car to access employment, secondary schools and large supermarkets. Nonetheless, that does not suggest to me that this is a wholly unsustainable location for the modest amounts of additional housing proposed.
36. I am mindful also that the Council itself acknowledged that, to be found sound, the emerging plan will result in a higher housing land requirement.
37. The five year requirement is not a ceiling on provision and the Framework seeks generally to boost housing supply. In this case, I consider that the combination of the benefits I have identified, together with the absence of material harm in terms of character and appearance generally and in relation to that of the CA, the acknowledged need for additional housing land going forward, and the sustainability of the location in terms of access for future occupiers to everyday services and facilities without over-reliance on car journeys, is sufficient to justify a decision contrary to the development plan in the circumstances of these appeals.

### Conditions

38. I have considered the conditions set out in the Statement of Common Ground in the light of the advice in paragraph 55 of the Framework. This states that these should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have amended those found necessary, mainly for simplicity and succinctness.
39. The standard outline conditions are necessary, including the time limit imposed for the submission of reserved matters (1-3). In the interests of the character and appearance of the area, the reserved matters shall accord with the submitted buffer zone parameter plans (4). Conditions are necessary to govern foul and surface water drainage (5,6). In the interests both of character and appearance and biodiversity, details of external lighting within the approved developments must be agreed in advance (7).

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of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

40. Conditions are also needed to secure archaeological investigation as part of the developments and to incorporate biodiversity enhancements (8,9). The surfacing of the site access and the maintenance of visibility splays are both details that may be addressed under the relevant reserved matters. The same applies to the details and implementation of hard and soft landscaping.

#### Conclusions

41. For the reasons set out above, having taken into consideration all other matters raised, I conclude on balance that both Appeal A and Appeal B should succeed, in each case subject to the conditions set out below.

*Jonathan Price*

INSPECTOR

#### APPEARANCES

##### FOR THE APPELLANT:

|                 |  |
|-----------------|--|
| Michael Calder  | Phase 2 Planning                           |
| Thomas Copp     | RPS  |
| Nigel Cowlin    | Nigel Cowlin Landscape Planning and Design |
| Lyndon Gill     | Barton Willmore                            |
| Andrew Winter   | Barton Willmore                            |
| Andrew McDonald | Waterman Group                             |

##### FOR THE LOCAL PLANNING AUTHORITY:

|                 |                                  |
|-----------------|----------------------------------|
| Derek Lawrence  | Braintree District Council (BDC) |
| Juliet Kirkaldy | BDC                              |
| Ana Patriarca   | BDC                              |
| Alex Evans      | BDC                              |
| Neil Jones      | BDC                              |
| Nicolas Page    | Place Services                   |

##### INTERESTED PERSON:

Peter Ashton

## DOCUMENTS SUBMITTED TO THE HEARING

- 1 Email to BDC from agents providing anticipated delivery milestones for Panfield Lane housing development by Mersea Homes and Hill Residential.
- 2 BDC spreadsheet, updated to end of September 2019, for lead times and delivery rates for large sites in Braintree.
- 3 Linked appeal decisions, references APP/Y0435/W/18/3214365 and APP/Y0435/W/18/3214364, regarding housing developments allowed at adjacent sites in Castlethorpe Road, Haslope MK19 7HQ.
- 4 BDC spreadsheet of average delivery rates from date of first completion for large sites in Braintree (with 3 sites removed with less than 6 months of completions).
- 5 **Council's latest revised** trajectory for outline pp 10+ units, resolution to grant/local plan allocations and outline pp 0.5ha+ / less than 10 units.
- 6 Average build out rates from BDC Appendix 3 – **appellant's** updates to September 2019, lead time and delivery rates in large sites.
- 7 Email from agents providing updated delivery (18 November 2019) milestones for Panfield Lane.
- 8 Email correspondence (November 2019) with latest housing delivery timescales for Cala Homes development, Kelvedon.
- 9 Photographs showing development progress at land off Western Road, Silver End.
- 10 Spreadsheet **updating appellant's** numbers in rebuttal statement over Braintree HLS, following discussions with BDC outside of hearing and subsequently reported.
- 11 Completed Section 106 agreement between appellant and BDC in respect of Appeal A.
- 12 Completed Section 106 agreement between appellant and BDC in respect of Appeal B.

### Schedule – Appeal A and Appeal B Conditions

- 1) Details of the access, appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The details required under condition 1 (above) shall accord with the Buffer Zone Parameter Plans ref: 967.218.00 and 967.1.218.00, with no dwellings, garaging or other ancillary buildings to be constructed within **the 'no development buffer zone' as defined on** these drawings.
- 5) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details that shall have first been submitted to and approved in writing by the local planning authority.
- 6) No dwelling hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and
  - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 7) None of the dwellings hereby permitted shall be occupied until an external lighting scheme has been submitted to and approved in writing by the local planning authority. Thereafter no external lighting shall be installed other than as detailed in the agreed scheme unless otherwise agreed in writing by the local planning authority.

- 8) No development shall take place until a Written Scheme of Investigation of archaeology has been submitted to and approved in writing by the local planning authority. No development shall take place other than in accordance with the approved Written Scheme of Investigation.
- 9) No development shall take place until a scheme for biodiversity protection and enhancement has been submitted to and approved in writing by the local planning authority. The measures agreed shall be implemented as part of the development and maintained thereafter.

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PART A

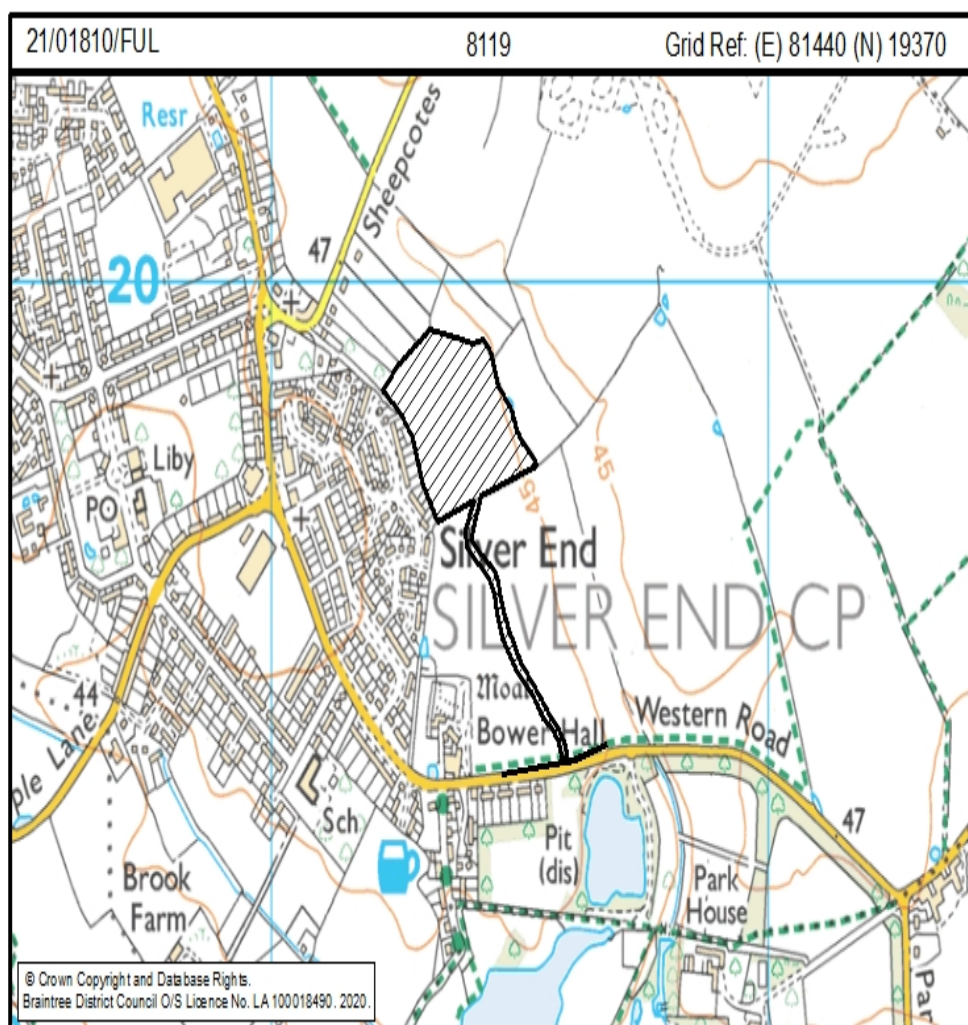
AGENDA ITEM NUMBER 5b

APPLICATION NO: 21/01810/FUL  
DATE VALID: 10.06.21  
APPLICANT: Redrow Homes Ltd  
C/o Agent, Chelmsford, England  
AGENT: Strutt & Parker  
Mr Richard Clews, Coval Hall, Rainsford Road, Chelmsford, CM1 2QF  
DESCRIPTION: Erection of 126 homes with associated access, open space and infrastructure (following outline planning permission 15/00280/OUT and as a variation of reserved matters approval 18/01751/REM)  
LOCATION: Land Off, Western Road, Silver End, Essex

For more information about this Application please contact:

Neil Jones on:- 01376 551414 Ext. 2523

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





The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QU4SIJBFLS900>

## SITE HISTORY

|                 |  |                                    |          |
|-----------------|--|------------------------------------|----------|
| 16/00026/NONDET | Outline planning permission for up to 350 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation. With all matters to be reserved. |                                    | 21.03.17 |
| 07/01602/AGR    | Erection of hay barn   | Permission Required                | 01.10.07 |
| 08/00034/FUL    | Erection of stables, barn and manege   | Refused                            | 28.02.08 |
| 08/01239/FUL    | Erection of stables, barn and manege   | Withdrawn                          | 04.08.08 |
| 11/00644/FUL    | Erection of stable barn and manege and change of use from agricultural land to land for keeping of horses  | Granted                            | 19.07.11 |
| 14/00930/FUL    | Erection of a stable block with associated hard standing, fencing, new vehicular access off Western Road and access track  | Refused                            | 11.05.15 |
| 14/00015/SCR    | Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Opinion Request - Residential development of up to 250 dwellings and associated community infrastructure   | Screening/ Scoping Opinion Adopted | 25.09.14 |
| 15/00001/SCO    | Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact   | Screening/ Scoping Opinion Adopted | 19.02.15 |



|              |  |   |          |
|--------------|--|---|----------|
|              | Assessment) Regulations<br>2011 - Screening & Scoping<br>Opinion Request -<br>Residential development of<br>up to 350 dwellings and<br>associated community<br>infrastructure  |   |          |
| 15/00002/SCR | Town & Country Planning<br>Act 1990 (as amended),<br>Town & Country Planning<br>(Environmental Impact<br>Assessment) Regulations<br>2011 - Screening & Scoping<br>Opinion Request -<br>Residential development of<br>up to 350 dwellings and<br>associated community<br>infrastructure   | Screening/<br>Scoping<br>Opinion<br>Adopted | 04.02.15 |
| 15/00280/OUT | Outline planning permission<br>for up to 350 residential<br>dwellings (including up to<br>40% affordable housing),<br>introduction of structural<br>planting and landscaping,<br>informal public open space<br>and children's play area,<br>surface water flood<br>mitigation and attenuation.<br>With all matters to be<br>reserved.  |   | 20.04.16 |
| 16/00797/OUT | Outline planning permission<br>for up to 335 residential<br>dwellings (including up to<br>40% affordable housing),<br>1.24 acres for C2 Use, up to<br>150 sq.m. for A1 Use,<br>introduction of structural<br>planting and landscaping,<br>informal public open space<br>and children's play area,<br>surface water flood<br>mitigation and attenuation.<br>With all matters to be<br>reserved. | Application<br>Returned                     |          |
| 18/01342/FUL | Creation of a field access<br>from Western Road into<br>Land North of Western<br>Road, erection of gate<br>posts, gate and fence.  | Granted                                     | 30.11.18 |
| 18/01693/FUL | Creation of a permanent  | Granted                                     | 03.12.18 |

|              |   |                          |          |
|--------------|---|--------------------------|----------|
|              | vehicular access from Western Road into Land North of Western Road, Silver End and creation of drainage features.   |                          |          |
| 18/01701/DAC | Application for approval of details reserved by condition 6 of approved application 15/00280/OUT  | Pending Consideration    |          |
| 18/01734/DAC | Application for approval of details reserved by condition 12 of outline planning permission 15/00280/OUT.   | Granted                  | 03.07.19 |
| 18/01737/DAC | Application for approval of details reserved by condition 9 of outline planning permission 15/00280/OUT.  | Part Grant, Part Refused | 19.08.19 |
| 18/01739/DAC | Application for approval of details reserved by condition 14 of approved application 15/00280/OUT   | Pending Consideration    |          |
| 18/01742/DAC | Application for approval of details reserved by condition 15 of approved application 15/00280/OUT   | Part Grant, Part Refused | 21.06.19 |
| 18/01743/DAC | Application for approval of details reserved by condition 16 of approved application 15/00280/OUT   | Granted                  | 02.02.21 |
| 18/01744/DAC | Application for approval of details reserved by condition 20 of approved application 15/00280/OUT   | Pending Consideration    |          |
| 18/01745/DAC | Application for approval of details reserved by condition 21 of approved application 15/00280/OUT   | Part Grant, Part Refused | 12.01.21 |
| 18/01747/DAC | Application for approval of details reserved by condition 18 of approved application 15/00280/OUT   | Pending Consideration    |          |
| 18/01751/REM | Application for approval of Reserved Matters (Access, Appearance, Landscaping, Layout and Scale) following the grant of outline planning permission ref: 15/00280/OUT - Erection of | Granted                  | 21.06.19 |

|              |   |                       |          |
|--------------|---|-----------------------|----------|
| 18/01932/DAC | 350 dwellings (including 40% affordable housing), creation of internal roads, footpaths, open space, SuDS features, a sub station, a pumping station and groundworks.<br>Application for approval of details reserved by condition 8 of outline planning permission 15/00280/OUT.   | Pending Consideration |          |
| 19/00029/DAC | Application for approval of details reserved by condition 19 of approved application 15/00280/OUT   | Granted               | 22.01.21 |
| 19/00324/FUL | Creation of a temporary construction access and haul road from Western Road into land north of Western Road, and associated works to facilitate future residential development of land  | Granted               | 21.06.19 |
| 19/00566/DAC | Application for approval of details reserved by condition 10 of approval 15/00280/OUT - The development proposed is up to 350 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation. | Granted               | 01.10.19 |
| 19/00940/DAC | Application for approval of details reserved by conditions 17 and 23 of approval 15/00280/OUT - Outline planning permission for up to 350 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area,                                     | Granted               | 22.01.21 |

|                 |   |                       |          |
|-----------------|---|-----------------------|----------|
|                 | surface water flood mitigation and attenuation. With all matters to be reserved.  |                       |          |
| 19/01063/DAC    | Application for approval of details reserved by condition 11 of approved application 15/00280/OUT - Outline planning permission for up to 350 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation.   | Granted               | 30.12.19 |
| 19/01414/DAC    | Application for approval of details reserved by conditions 3, 5, 9, 10 and 12 of approval 18/01751/REM  | Pending Consideration |          |
| 19/02206/NMA    | Non-Material Amendment to permission 18/01751/REM granted 21.06.2019 for: Application for approval of Reserved Matters (Access, Appearance, Landscaping, Layout and Scale) following the grant of outline planning permission ref: 15/00280/OUT - Erection of 350 dwellings (including 40% affordable housing), creation of internal roads, footpaths, open space, SuDS features, a sub station, a pumping station and groundworks. Amendment would allow: Substitution of house types. | Refused               | 31.12.19 |
| 19/02297/ADV    | Erection of a non-illuminated advert comprising the word 'REDROW' and the Redrow Homes logo   | Granted               | 26.06.20 |
| 19/02298/ADV    | Retention of eight banner advertisements  | Granted               | 26.06.20 |
| 20/00006/C19CWH | Proposed modification of Construction Working Hours   | Granted               | 11.11.20 |

|              |  |                       |          |
|--------------|--|-----------------------|----------|
|              | approved under application reference 15/00280/OUT to:<br>Monday to Friday - 0800 to 2100 hours<br>Saturday - 0800 to 1700 hours & Saturday - 1700 to 2100 (Use dumpers or 360 Machines is not permitted during these hours)<br>Sunday, Public Holidays and Bank Holidays - No working permitted  |                       |          |
| 20/02222/FUL | Erection of illuminated brick entrance walls and piers   | Withdrawn             | 10.02.21 |
| 20/02223/ADV | Retention of advert comprising the word 'REDROW' and the Redrow Homes Logo with the installation of internal lights  | Granted               | 23.02.21 |
| 21/00483/DAC | Application for approval of details reserved by condition 25 of approval 15/00280/OUT  | Pending Consideration |          |
| 21/00488/DAC | Application for approval of details as reserved by condition 6 of approved application 18/01751/REM  | Pending Consideration |          |
| 21/02509/NMA | Non-Material Amendment to permission 18/01751/REM granted 21.06.2019 for:<br>Application for approval of Reserved Matters (Access, Appearance, Landscaping, Layout and Scale) following the grant of outline planning permission ref: 15/00280/OUT - Erection of 350 dwellings (including 40% affordable housing), creation of internal roads, footpaths, open space, SuDS features, a sub station, a pumping station and groundworks.<br>Amendment would allow:- open space analysis plan to remove two small areas of land from the open space analysis. | Pending Consideration |          |

## 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                    |
| RLP3  | Development within Town Development Boundaries and Village Envelopes |
| RLP4  | Prevention of Town Cramming  |
| RLP7  | Housing and Mixed Use Sites  |
| RLP8  | House Types  |
| RLP9  | Design and Layout of Housing and Mixed Use Areas                     |
| RLP10 | Residential Density  |
| RLP22 | Accessible Housing and Lifetime Housing                              |
| RLP49 | Pedestrian Networks  |
| RLP51 | Cycle Parking  |

|        |  |
|--------|--|
| RLP56  | Vehicle Parking  |
| RLP65  | External Lighting  |
| RLP69  | Sustainable Urban Drainage   |
| RLP69  | Sustainable Urban Drainage   |
| RLP71  | Water Supply, Sewerage & Drainage  |
| RLP81  | Trees, Woodland Grasslands and Hedgerows   |
| RLP84  | Protected Species  |
| RLP90  | Layout and Design of Development   |
| RLP91  | Site Appraisal   |
| RLP92  | Accessibility  |
| RLP94  | Public Art   |
| RLP95  | Preservation and Enhancement of Conservation Areas                                   |
| RLP100 | Alterations and Extensions and Changes of Use to Listed Buildings and their settings |
| RLP138 | Provision of Open Space in New Housing Developments                                  |

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

|      |  |
|------|--|
| CS2  | Affordable Housing                             |
| CS5  | The Countryside                                |
| CS7  | Promoting Accessibility for All                |
| CS8  | Natural Environment and Biodiversity           |
| CS10 | Provision for Open Space, Sport and Recreation |

#### Braintree District Shared Strategic Section 1 Local Plan (2021)

|     |  |
|-----|--|
| SP1 | Presumption in Favour of Sustainable Development |
| SP3 | Spatial Strategy for North Essex                 |
| SP4 | Meeting Housing Needs                            |
| SP6 | Infrastructure & Connectivity                    |
| SP7 | Place Shaping Principles                         |

#### Braintree District Draft Section 2 Local Plan (2017)

|       |  |
|-------|--|
| LPP1  | Development Boundaries   |
| LPP33 | Affordable Housing   |
| LPP37 | Housing Type and Density   |
| LPP45 | Parking Provision  |
| LPP50 | Built and Historic Environment                                     |
| LPP51 | An Inclusive Environment   |
| LPP53 | Provision of Open Space, Sport and Recreation                      |
| LPP55 | Layout and Design of Development                                   |
| LPP56 | Conservation Areas   |
| LPP60 | Heritage Assets and their Settings                                 |
| LPP67 | Natural Environment and Green Infrastructure                       |
| LPP68 | Protected Species, Priority Spaces and Priority Habitat            |
| LPP69 | Tree Protection  |
| LPP70 | Protection, Enhancement, Management and Monitoring of Biodiversity |

|       |  |
|-------|--|
| LPP73 | Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards |
| LPP78 | Flooding Risk and Surface Water Drainage   |
| LPP79 | Surface Water Management Plan  |
| LPP80 | Sustainable Urban Drainage Systems   |
| LPP81 | External Lighting  |
| LPP82 | Infrastructure Delivery and Impact Mitigation  |

### Neighbourhood Plan

There is currently no Silver End Neighbourhood Plan. At the time of writing this report the District Council has not received a request to designate a Neighbourhood Plan area, which would be the first step towards preparing and adopting a Neighbourhood Plan.

### Supplementary Planning Guidance

External Lighting Supplementary Planning Document  
Open Spaces Supplementary Planning Document  
Open Spaces Action Plan  
Essex Parking Standards 2009

### 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.

The application has also been appealed for non-determination by the Applicant. Members therefore need to determine what the Council's decision would have been if an appeal for non-determination had not been submitted.

### SITE HISTORY – BACKGROUND TO CURRENT APPLICATION

A planning application was submitted in February 2016 for outline planning permission for up to 350 residential dwellings (including up to 40% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, and surface water flood mitigation. The Council intended to refuse the application, but before that decision could be taken the applicant, Gladman Developments, appealed to the Secretary of State on the grounds of non-determination.

A Public Inquiry was held in February 2017 where the Council argued that the appeal should be dismissed and planning permission refused. In March 2017 the Planning Inspectorate issued a decision on behalf of the Secretary of State and granted outline planning permission, subject to conditions and planning obligations set out in a Unilateral Undertaking.



The site was subsequently purchased by Redrow. In 2018 three planning applications were submitted – i) for the creation of a field access from Western Road into the site (Application Reference 18/01342/FUL); ii) the construction of a permanent vehicular access from Western Road and creation of drainage features (Application Reference 18/01693/FUL) and iii) an application for approval of all the Reserved Matters (Application Reference 18/01751/REM). The first two applications were approved in 2018 and the Reserved Matters application was approved in March 2019.

Construction of the new homes within the southern part of the site commenced in early 2019. The access works along the Western Road frontage have also been undertaken pursuant to a highway works agreement with the Highway Authority, Essex County Council. The development continues to be built out with 53 new homes already completed.

### DESCRIPTION OF THE SITE AND SITE CONTEXT

The original application site which the Planning Inspector granted outline planning permission for, comprises two fields separated by a ditch and a hedgerow. This current application relates just to the northern field / parcel of land. The applicant within their application documents refers to this as being the second phase of development. The application site area is 4.93ha.

Vehicular access and access for pedestrians and cyclists is through the development that is currently being built out within the southern field / parcel of land. The sole permanent vehicular access to the whole development remains off Western Road.

To the west of the site is modern residential development on the eastern edge of the village. Bowers Hall, a Grade II listed farmhouse set in a large curtilage, adjoins the south west corner of the site. Most of the former farm buildings, including a large 19th century barn, are in separate occupation and are used for the storage of cars.

There is open farmland to the east and north east and, to the north-west, there are extensive curtilages of properties that front Sheepcotes Lane. Members will recall from the recent planning application at the property known as Rascasse that along this part of Sheepcotes Lane there is a mix of private residential dwellings and properties providing supported living accommodation.

### PROPOSAL

This application seeks full planning application for the erection of 126 homes with associated access, open space and infrastructure. Members will note that whilst outline planning permission has been granted for development of this site and approval has been given for all reserved matters (access, appearance, landscaping, layout and scale), the applicant is applying for full planning permission for this parcel of land. Whilst the planning statement

refers to this as being a variation of the reserved matters approval it is a full application which should be considered on its own merits.

This application seeks permission for the erection of 126 dwellings on the northern part of the site. This is the same number of dwellings in the approved Reserved Matters scheme. The applicant states the application has been submitted to gain approval for amendments to the housing mix, and the design and layout of the consented homes. These matters are discussed in further detail within the body of the report.

In addition to the usual full set of layout and elevational drawings the application is also supported by a suite of documents, including:

**Air Quality Assessment**

**Arboricultural Impact Assessment**

**Contamination Assessment**

**Design and Access Statement**

**Ecological Assessment**

**Flood Risk Assessment and Drainage Strategy**

**Landscape and Ecological Management Plan**

**Landscape Statement**

**Lighting Strategy**

**Noise Assessment**

**Shadow Habitats Regulation Assessment**

**Statement of Community Involvement**

**Transport Assessment**

**Travel Plan**

## SUMMARY OF CONSULTATION RESPONSES

### Anglian Water

No objection.

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

Used Water Network - The sewerage system at present has available capacity for these flows.

If planning permission is granted a number of informatics are recommended concerning procedural matters for connecting the public sewer system and adoption of sewers within the development and protection of existing Anglian Water assets.

### ECC Education

No objection subject to mitigation of impacts on Education & Library service.

The Education Authority project that a development of this type would be likely to generate a need for an additional 10.2 places at Early Years & Childcare; 34.2 additional places in Primary Education and 22.8 places at Secondary School.

There is insufficient capacity at existing Early Years & Childcare settings and Primary Schools to accommodate the children that are projected to live at a development. Financial contributions are sought to create additional capacity to meet the increased demand.

The County Council recommend that a financial contribution of £307,295.40 is sought towards the provision of Early Years & Childcare; £590,565.60 towards increasing capacity at local primary schools; and £113,498.40 towards the cost of transport for children from the development to Secondary School.

In addition the County Council recommend that a contribution of £9,802.80 (£77.80 per dwelling) is sought to fund improvements to the library service.

### ECC Highways

No response received at the time of writing this report. Officers have chased for a response and if one is received before the Planning Committee meeting, Members will be provided with an update.

### Lead Local Flood Authority (ECC SUDS)

Holding objection. In their initial response the LLFA issued a holding objection based on the following: Submission of results from infiltration tests required; half drain down times from detention basins to demonstrate that all storage features can half empty within required timeframe; final modelling and calculations for all areas of the drainage system for required flood events including the 100 year storm plus climate change allowance of 40% should be provided detailed engineering drawings of each component of the drainage scheme; a final drainage plan which details exceedance and conveyance routes, FFL and ground levels should be provided; a written update report highlighting changes to the previous report version.

The applicant submitted additional information which was also submitted to the LLFA for review and comment. Officers have chased for a response but a detailed response is yet to be received. If one is received before the Planning Committee meeting, Members will be provided with an update.

### Essex Police

No objection but highlight need for further information. Whilst there are no apparent concerns with the layout it is noted that in some locations bollard lighting is planned. Specific concerns raised regarding the use of bollard lighting, which is not compliant with BS5489-1:2020. It can make it difficult to can be ineffective as it can be obscured, damaged or vandalised and the

quality of light can recognising facial features difficult. Also can be more detrimental to wildlife such as bats.

To comment further we would require the finer detail such as the physical security measures, and in relation to the apartments the planned access control, visitor entry system and mail delivery method. We would welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with this policy by achieving a Secured by Design Homes award.

#### Historic Environment Consultant (Archaeology)

No objection subject to conditions. A planning condition on the outline planning permission requires an archaeological evaluation of the site to determine the impact of the development on potential archaeological remains.

An evaluation has been completed on part of the wider site and an excavation completed under planning application 15/00280/OUT, the results of which have not yet been submitted as a report and the condition on the 2015 application has not been fully satisfied.

A further evaluation was required on the above site and a Written Scheme of Investigation was received and approved in 2019. This evaluation has not yet been completed and the WSI has not been submitted with the application. The fieldwork will need to be undertaken and the report for the area previously investigated will also need to be completed should this application supersede the 2015 application.

#### Natural England

No objection, subject to securing any necessary recreational disturbance mitigation. Natural England state that they have not assessed this application but refer to their published Standing Advice which can be used to assess potential impacts and the Council may wish to consult your own ecology services for advice.

They also state that the development falls within the 'Zone of Influence' (Zoi) of European designated sites scoped in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). They advise that because of the scale of development it is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. It is recommended that the Council undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation.

#### BDC Environmental Health

No objection. Having reviewed the application the Environmental Health Officer has no adverse comments. The conclusions of the noise, air quality and contaminated land reports are all accepted. In regard to contaminated

land then a condition relating to dealing with unforeseen contamination would be appropriate. A Construction Management Plan should be applied to control construction activity, including working hours.

### BDC Ecology

Holding Objection. Initial holding objection due to insufficient ecological information upon European Protected Species because the Ecological Assessment has identified that Bat Activity Surveys and eDNA Surveys, initially carried out for the approved reserved matters application (18/01751/REM), are out of date to support this application in line with the CIEEM Guidance.

Updated information concerning Great Crested Newts is required prior to determination because the Local Planning Authority must consider the guidance under paragraph 99 of the ODPM Circular 06/2005.

In terms of Bats, we note that a moderate level of bat activity was recorded during the activity surveys undertaken in 2018, with higher activities present at the north of the site. As bats are mobile species, the distributions of commuting / foraging on site may have changed. However, the majority of hedgerows are to be retained and enhanced within the scheme and the Planning lighting plan (Dwg: 8552-43-1-001) demonstrates that lighting will be directed away from boundary features. As a result, we would support the bat activity surveys being secured as a condition of any consent prior to commencement, as the further surveys meet the exceptional circumstance criteria listed in Biodiversity — Code of practice for planning and development (BS42020:2013).

Designated Sites – Habitats Regulations Assessment: The site lies within the Zone of Influence (ZOI) for several Protected coastal sites. The applicant has submitted a 'Shadow Habitats Regulations Assessment' which sets out the measures the developer will take to offset increased recreational pressure and avoid adverse effects to site integrity to these Habitats Sites, in line with the Essex Coast RAMS.

Landscaping and Biodiversity enhancements: generally supportive of the proposals however, state that it would be preferable to include a Biodiversity Net Gain Assessment for this development, using the DEFRA Biodiversity Metric 3.0 (or any successor) to quantify this.

### BDC Housing Enabling Officer

Objection. Whilst the application proposes the same number of Affordable Homes as the approved scheme the Housing Enabling Officer is not satisfied with changes to the mix of Affordable Housing now being proposed.

### BDC Waste Services

No objection. The adopted highway will need to be extended nearest to Plots 191-194, as the distance shown (as the crow flies), so in practice will be further, for our collection crews to collect the bins is 24.3 metres. The furthest our collectors walk from where the collection vehicle stops, to collect bins is 20 metres, so the plans will need amending.

Following receipt of revised plans the Operations Department confirm that the arrangements shown for collection of refuse and recycling is acceptable for them.

### PARISH / TOWN COUNCIL

#### Silver End Parish Council

No response has been received from Silver End Parish Council.

### PUBLICITY

The application was publicised by way of advertisement in the Braintree & Witham Times; six site notices were displayed on or adjacent the application site and neighbour notification letters sent to properties immediately adjacent to the site.

Six (as at 21.09.21) representations have been submitted in respect of the application, objecting to the proposal. A summary of the main issues raised in the representations are set out below:

#### Principle of Development

No more greenfield sites should not be developed when there is a brownfield site in the centre of the village.

#### Impact on Infrastructure

The existing sewage system is inadequate and adding more flows will exacerbate existing problems with sewage flooding during heavy rain fall in Western Lane.

The local Doctors Surgery is over-subscribed and is often unable to deal with the patients already registered making it difficult to get appointments - some often weeks away.

New residents cannot register at the Silver End surgery and are being directed to Witham or Braintree.

Lack of facilities for children and teenagers (the Youth Club closed years ago and the BMX track was lost - a skate park gained) will lead to anti-social behaviour all due to the lack of social activities within the village. All activities tend to be in Witham or Braintree which are not accessible unless parents drive children there.

Consideration must be given to the existing residents in this village who already suffer as a result of inadequate infrastructure. Schools, shops, car parks, doctors, and roads, remain the same and are getting overwhelmed. The infrastructure cannot cope with anymore housing.

The local primary school is nearly full / over-subscribed and will struggle to meet the needs of the growing village.

Older children are transported to Witham, Braintree, Coggeshall, Chelmsford and Colchester. There are large housing developments close to all those schools but no new schools being built or existing schools being expanded. We now face the fact that our children will be separated and sent to different schools around the area where there are places.

### Highway Network/Safety

The village is already experiencing an increase in traffic flow through the village which amongst other things makes it difficult to get out of Western Lane and Grooms Lane.

Another enclave of housing that does not link to other parts of the village and is only accessed via the main road.

Public transport is okay during the week but with nothing after about 19:30 and nothing on a Sunday. There are no direct routes to Chelmsford or Colchester.

Cycling is not an option. New residents are car dependent.

The train service from Witham to London & Colchester is good but getting there is not. The Braintree branch line is not a viable alternative.

Western Road & Boars Tye Road are very narrow with numerous blind bends with no verges. There have been no significant improvements and the roads have historically seen several accidents with at least two deaths.

Parking congestion in the Village centre.

### Impact on Wildlife and Countryside

The ecological impact as a result of yet more 'greenfield' land is being made over to increased housing development.

## REPORT

### PRINCIPLE OF DEVELOPMENT

#### National Planning Policy Framework (NPPF) 2021

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 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that the needs of groups with specific housing requirements are addressed, and that land with permission is developed without unnecessary delay. Paragraph 74 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) the housing requirement set out in adopted strategic policies 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

Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005), the Braintree District Core Strategy (2011), and the Braintree District Shared Strategic Section 1 Local Plan (2021).

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 site is located in an area of 'countryside', outside any development boundary in the adopted Development Plan, lying beyond the eastern village development envelope of Silver End. The application therefore constitutes a departure from Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy. As a consequence, the proposal also represents a departure from the Development Plan as a whole.

However, the principle of development has been established under the original outline planning permission which as identified above, was granted on appeal by the Planning Inspector, under Application Reference 15/00280/OUT, issued on 21st March 2017. Having considered all the matters before them, the Inspector concluded that the site was suitable for residential development. As the principle of residential development was established by that decision, the Council subsequently proposed that the site be allocated for residential development in the Publication Draft Section 2 Local Plan.

Although the proposal would conflict with the development boundaries within the adopted Development Plan it would not conflict with Policy LPP1 of the Section 2 Plan. Given the extant permission and the emerging Local Plan, Officers consider that the principle of development has been firmly established.

### 5 Year Housing 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 2021. Within this trajectory the Council considered that it has a 5.34 year supply of housing, based on a 5% buffer.

At its full Council on the 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Local 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. 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 Council's Housing Land Supply position has recently been contested as part of an appeal at Land North of Station Road, Earls Colne (APP/Z1510/W/21/3267825). Within the appeal decision dated 12th November 2021 the Inspector concluded at Paragraph 56 that:

*“Consequently, the Council cannot demonstrate a five-year supply of housing land and I consider the Council’s housing land supply position to lie in the region of between about 4.7 and 4.9 years.”*

This conclusion was reached as a result of the removal by the Inspector of the whole or part of the contribution from four contested sites in the Council's deliverable supply: Land east of Broad Road; Towerlands Park; Land between Long Green and Braintree Road; and Land North of Oak Road.

The Council has reviewed its housing supply position in light of the Station Road, Earls Colne decision, which is not binding. Notwithstanding the Inspector's conclusions, the Council maintains that it can demonstrate in excess of a five-year supply of deliverable housing sites.

Concluding on a site's deliverability – and specifically whether there is a realistic prospect that housing will be delivered within five years – is a matter of planning judgment. The Courts have confirmed that for there to be a realistic prospect there does not need to be certainty or even probability that sites will deliver within 5 years. The Council considers that, in a number of respects, the Inspector took an overly pessimistic approach to deliverability in light of the evidence available at the date of the hearing.

Furthermore, since the hearing date, further progress has been made on number of the sites which the Inspector chose to discount from the supply, and therefore the evidence of deliverability has moved on from that which was available to the Inspector.

Having undertaken the review, and on the basis of the latest available evidence, the Council can demonstrate a 5.27 year supply of housing (the slight reduction from 5.34 years is as a result of removing a couple of small sites where permission has expired, and a reassessment of the trajectory on Land east of Broad Road).

As such the Council considers that it can still demonstrate 5 year deliverable supply of housing land and therefore the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply.

In addition, the current supply position does not include sites which are proposed to be allocated within the Section 2 Plan but do not yet have planning permission or a resolution to grant planning permission.

These allocations without permission are being tested at the Section 2 Plan Examination. Once the Section 2 Plan is adopted, these sites will become adopted allocations and greater weight can be given to them. It will also improve the prospects of these being included within the deliverable supply, where there is clear evidence that there is a realistic prospect that housing will be delivered on the site within five years.

## SITE ASSESSMENT

### Location and Access to Services and Facilities

The strategy set out in the emerging Section 2 Plan is to concentrate growth in the most sustainable locations - that is, by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to nearby shops, services and employment opportunities. This means for the new Local Plan inter alia:

*“That the broad spatial strategy for the District should concentrate development in Braintree, Witham and the A12 corridor, and Halstead”.*

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

Policy RLP53 of the Adopted Local Plan states that major new development proposals that are likely to generate significant levels of travel demand will only be permitted where: direct public transport services exist, or there is potential for the development to be well served by public transport; and the layout of the development has been designed to ensure that access to existing or potential public transport lies within easy walking distance of the entire site.

Policy LPP44 of the Section 2 Plan states that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks.

The site is located within an area that was previously countryside, although the site is adjacent to the existing village development boundary. Notwithstanding this it is necessary to consider the amenities/facilities that are available within close proximity to the site.

As a whole, Silver End is relatively well equipped with a range of facilities including a Doctor's Surgery, Primary School, Children's Centre, garage, library, chemist, co-op and Post Office, pub, takeaway, a range of groups and clubs and a village hall. It is however noted that there are limited employment opportunities within the village.

The development has been connected by new footway along the site frontage and along Western Road linking in to the existing footway to the north of the Western Arms public house. In addition a pedestrian / cycle path would be provided to connect the site to Daniel Way. The Daniel Way connection would provide a more direct link for residents to walk towards the main village facilities.

New bus stops have been provided at the site frontage on Western Road. The bus stops are served by the No.38 and No.38A which provides a twice hourly

service Monday to Saturday between Witham and Halstead. There are no buses on a Sunday.

All these factors were considered by the Planning Inspector who concluded that Silver End has a range of local facilities, sufficient to meet most day to day needs and that these would be within a reasonable walking distance of the site, subject to the provision of the Daniel Way link. Although the availability of employment in Silver End was considered to be limited the Inspector concluded that there is reasonable accessibility to employment opportunities in a range of higher order settlements. Given that a Planning Inspector has concluded that the location can be considered one that is reasonably sustainable, with services, facilities and employment reasonably accessible by sustainable means no objection is raised in respect of the sustainability of the location and access to services and facilities.

### Appearance, Layout and Scale

Both Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan require a high standard of design and layout in all developments. Policy CS9 of the Core Strategy requires '*the highest possible standards of design and layout in all new development*'. At the national level, the NPPF was revised earlier this year and one of the key changes were updated policies aiming to improve the design of new developments. These include changes to the overarching social objective of the planning system to include the promotion of "*well-designed, beautiful and safe places*". In comparison, the previous version of the NPPF had simply required "*a well-designed and safe built environment*". The Government has raised the bar and this Council is expecting developers to respond to this new directive and help design more beautiful places.

The previous application was the subject of a considerable amount of work by Officers and the developer. Indeed Members may recall that Officers acknowledged at Planning Committee the extensive changes and revisions that the applicant agreed to before the Reserved Matters could be approved. The changes were extensive but included reducing the range of house types proposed to be used and providing greater uniformity or distinct character areas; changes to the design and external appearance of housing; and extensive revisions to parking arrangements, both in parking courts and on plot and visitor parking arrangements. The original planning permission covered both the application site and the land to the south. A field boundary separated the two parcels. The previously approved scheme to some extent viewed the two fields as almost separate phases. The land to the south contained a greater proportion of larger detached and semi-detached housing, with a little more variation in house types. The land which now forms this application site contained a higher proportion of smaller and terraced housing and the elevational treatments were on the whole simpler. The intention was not to replicate house designs from elsewhere within the village but instead the designs were intended to be sympathetic to the character of Silver End.

The proposed layout is also considered to include elements of poor townscape, with one example being the vista from the eastern edge of the site along the road and terminating with the on-plot parking for Plot 247 and the enclosure and possibly part of the entrance to the parking court. The Cul-De-Sac at the north east corner is a further example of poor design which results in a further dilution of the formality that is characteristic of much of the village.

Another important characteristic of the village is the planting within the public realm with hedges, verges and trees all contributing to an attractive public realm and this was something that was picked up in the previously approved scheme. Whilst this application retains some of these elements there are also examples where the quality has been diluted, or where not enough effort has been paid to reflecting this characteristic. The previously approved scheme included verges to the central north/south street and a well planted arrangement of trees which sought to establish a consistent avenue. This application has replaced this with trees that are situated closer to houses and the previous consistency of planting broken which diminishes the sense of rhythm.

The elevational treatment of the houses has also changed. Whilst the applicants Design and Access Statement reports that the palette of materials being proposed draws on 'the local context'. This is only true if the only local context are the homes under construction by the same developer to the south. The architectural styles and some of the external materials have nothing to do with the rest of the village. The characteristics of the village would tend to comprise of simple building forms and materials and a homogeneity of design along with the prevalence of smaller houses in terraces and pairs. In terms of materials proposed for the application site, the tile hanging and waney edged cladding are not characteristic of Silver End, or indeed the Essex vernacular. Regrettably the developer is seeking to apply their standard housing product in a village where the designs fail to reflect the local character and distinctiveness. Officers acknowledge that this application in many respects in continuing the architectural styling and materials that were approved for use to the south of the application site. This does not mean that same approach should be rolled out over the whole application site. The Council do not want the whole development to have the same character and appearance and the design ethos underpinning the previously approved scheme was that this site would have a closer association with the village to which it is attached.

Officers also consider some of the parking arrangements within the development to be unacceptably poor. Examples include the large parking courts that has been designed to serve apartment Blocks 1 & 2. On the previously approved scheme the parking areas serving the flats were been sub-divided to reduce their size and to promote a greater sense of ownership by residents and improve security. This was something that Officers specifically required on that application. On the current application, the sub-division has been taken away and there is a single parking court serving 18 apartments. To comply with the parking standards the car park has 30 spaces served off a single entrance. This results in a large area of hard standing. With limited landscaping to soften its appearance it is hard to accept this will be

attractive, high quality or beautiful space. By providing a single large car park residents will also have a much reduced sense of ownership over the space. This is another disappointing aspect of the scheme where the developer is well aware from previous developments and discussions that this arrangement is not something that Officers consider acceptable.

Parking is also proposed in front of dwellings. This arrangement formed part of the previously approved scheme, however that arrangement was more refined and provided residents with more useable and attractive parking arrangements. The spaces were carefully designed so that the car parking does not dominate the street scene but also so that residents were not required to park their cars directly in front of neighbour's properties. Whilst this application again proposes to provide low front garden walls to provide some barrier between the houses and parked cars, to prevent headlights shining in to properties, the spaces have been arranged so that numerous houses will be parking both their cars almost directly in front of a neighbour's house, some examples being Plots 200 and Plots 206-220. The parking arrangement in front of Plots 215-220 is particularly poor with some residents parking in front of the house two doors along the terrace. This is considered to be poor design and is not acceptable. There are a number of plots where residents are parking in front of their home and where cars will overhang the neighbour's property, but where the parking space is circa 1.5m from the front windows of the neighbours dwelling and with no wall or barrier to screen headlights and help mitigate noise and exhaust fumes. Plots 174-177 and 161-164 are examples of this.

The parking arrangements for Plots 248-259 are also sub-optimal. Four of the dwellings are parked in a small parking court at the rear of their gardens. They may have direct access from the parking court, although this is not shown, but virtually no space for any landscaping or any means of softening the appearance of the area. Officers do not consider this would be a pleasant or attractive area. The remaining 8 dwellings in the block are all parked perpendicular to the street round the corner, where the residents will be unable to see their vehicles. Again Officers consider this to be a poor quality design solution.

The layout retains a number of terraced properties which is supported, but whereas the previously approved scheme included ginnels to allow the owners of properties in the centre of the terraces to have access through to their rear gardens the current application has omitted the ginnels and instead provides narrow walkways that run down the sides and then backs of the gardens to provide access to the rear. This is the route that residents would be expected to navigate to put their refuse and recycling out for collection. It also means that the private amenity areas and rear of properties will be less secure. Whilst the Council has accepted this arrangement on other developments this is seen as a further regressive step in terms of design quality if the current application is measured against the previously approved scheme.

Within the Planning Practice Guidance section on design, the Government states that local planning authorities should ensure that the quality of approved development is not materially diminished between permission and completion. Whilst the guidance may not have been intended to cover precisely this scenario, Officers consider that the principles hold and that it is important that design quality is not diminished as a permission is implemented. Officers feel strongly that the proposed development would undermine the design ethos that underpinned the original reserved matters approval. The applicant is only paying lip service to local and national planning policies which encourage design to respond positively to the local context and where appropriate recognise and reflect local distinctiveness. The elevational treatments of the dwellings are characteristic of the developer's product, as evidenced by viewing images of properties for sale at various development sites across Essex and beyond. For all these reasons the Appearance, Design and Layout of the development is considered to be unacceptable.

#### Housing Mix - Affordable Housing

The mix of Affordable Housing secured through the Reserved Matters application was the subject of considerable discussion and negotiation. Officers have not encouraged or sought any changes to the Affordable Housing that was agreed through the Outline planning permission and subsequent Reserved Matters.

A summary of the key elements of the Affordable Housing proposed is set out below:

64 Affordable Homes are proposed within this part of the development – the same as the approved scheme.

When combined with the Affordable Housing being built out on the land to the south of this application, a total of 140 Affordable Homes will be provided – 40% of the homes on the development.

The same split of shared ownership and affordable rent is also proposed as previously approved on the northern parcel, being 20 and 44 homes respectively. This maintains the overall provision of 30% shared ownership and 70% affordable rent across the wider site in accordance with the Councils requirements.

Number of 1-bed flats reduced by 6 units.

Number of 3-bed houses reduced by 13 units (falling from 30.7% to 21.4% of the mix).

Number of 2-bed houses increased by 19 units (37.1% to 50.7%).

Paragraphs 61 & 62 of the NPPF states that strategic planning policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. The local housing market need assessment should then be used to determine the size, type and tenure of

housing needed for different groups in the community including, but not limited to, those who require affordable housing.

Policy LPP33 of the Section 2 Plan is concerned with the provision of Affordable Housing. The policy states that Affordable Housing will be directly provided by the developer within housing schemes and that in this location a target of 40% of the total number of residential units sites should be provided as Affordable Homes. The mix of ownership options will be subject to identified local needs. The policy goes on to state that a mix of units to reflect the current local need will be required to be delivered on the site.

Policy LPP37 of the Section 2 Plan is a more general policy that sets out policy in respect of Housing Type and the Density of Development. The policy states that new developments should seek to create sustainable, inclusive and mixed communities through providing a mix of house types and size at an appropriate density for the area, which reflects local need. It goes on to state that the housing mix should be in line with the identified local need as set out in the 2015 SHMA update (or its successor), unless material considerations indicate otherwise.

The applicant has argued that the proposed changes to the Affordable Housing mix are an improvement on the mix previously agreed as the mix proposed with this application accords more closely to the need for Affordable Housing set out in the 2015 SHMA.

|       | Approved Scheme –<br>18/01751/REM |      | Proposed Amended<br>Scheme |       | Mix based on need<br>specified in SHMA –<br>2015 |      |
|-------|-----------------------------------|------|----------------------------|-------|--|------|
|       | No.                               | %    | No.                        | %     | No.  | %    |
| 1     | 39                                | 27.9 | 33                         | 23.57 | 14   | 10.2 |
| 2     | 52                                | 37.1 | 71                         | 50.71 | 77   | 55   |
| 3     | 43                                | 30.7 | 30                         | 21.4  | 35   | 25   |
| 4 +   | 6                                 | 4.3  | 6                          | 4.3   | 14   | 9.8  |
| Total | 140                               |      | 140                        |       | 140  |      |

Whilst the small reduction in the number of 1-bed apartments would be acceptable, the loss of 13 x 3-bed houses most certainly would not be acceptable.

The Section 2 Plan states that Affordable Housing provided should reflect local need (LPP33) and '*... should be in line with the identified local need as set out in the 2015 SHMA update (or its successor), unless material considerations indicate otherwise*'.

The Council's Strategic Housing Team provide Planning Officers with advice on all major planning applications in respect of the need for Affordable Housing. Whilst they are aware of the recommendations of the SHMA on affordable housing need, the housing register provides a much more accurate and up to date picture of current housing need based on fact whereas the current SHMA is based on a sample survey within the District as a whole.



Officers consider that the data available to the Strategic Housing Team, along with their local knowledge clearly constitutes a material consideration which take precedent over the SHMA.

The need for different types of Affordable Housing varies with time and location. Braintree is unique amongst neighbouring authorities in providing data from the Housing Register and therefore local Affordable Housing need on its website via the Housing STATNAV. Whilst this is accessible to developers, the Strategic Housing Team also factor in a range of other factors when assessing local Affordable Housing need. These factors include emerging trends in the composition of the housing register; changes to the benefit system; the delivery of Affordable Housing through new housing developments within the locality of a new development site and the pipeline of Affordable Housing that will be delivered in coming years through yet to be built housing developments within the locality. As an example the Council's Strategic Housing Team have secured a large number of 2-bedroom Affordable Homes through S106 agreements. However, over the past 18 months or so demand for larger 3 and 4 bed family homes has significantly increased with waiting times for this type of accommodation increasing substantially. This is impacting on the Council's ability to allocate this type of home in reasonable timescales and is one factor that is leading the Council to secure a slightly higher proportion of 3 & 4-bed dwellings through new S106 agreements than had previously been the case.

Whilst the Strategic Housing Team consider the findings of the 2015 SHMA they assess local Affordable Housing need on a site by site basis to ensure that the Council secure the most appropriate type of affordable housing to address local housing need.

Officers would further note that if the applicant wanted to provide Affordable Housing that accorded with the mix suggested in the SHMA they would need to more than halve the number of 1-bed flats; increase the number of 2-bed and 3-bed dwellings and more than double the number of 4-bed dwellings. The argument that the change in Affordable Housing is being made so that the developer can provide Affordable Housing that reflects the mix recommended in the SHMA, seems at best to be selective focusing on the provision of 2-bed dwellings, largely at the expense of larger much needed 3-bed dwellings.

#### Housing Mix - Market Housing

This application also is designed with a different mix of Market Housing to that which was agreed at Reserved Matters stage.

|   | Approved Scheme –<br>18/01751/REM |      | Proposed Amended<br>Scheme |      | SHMA – 2015 |    |
|---|-----------------------------------|------|----------------------------|------|-------------|----|
|   | No.                               | %    | No.                        | %    | No.         | %  |
| 1 | 0                                 | 0    | 0                          | 0    | 8           | 4  |
| 2 | 9                                 | 4.3  | 26                         | 12.4 | 65          | 31 |
| 3 | 109                               | 51.9 | 83                         | 39.5 | 95          | 45 |

|       |     |      |     |      |     |    |
|-------|-----|------|-----|------|-----|----|
| 4 +   | 92  | 43.8 | 101 | 48.1 | 42  | 20 |
| Total | 210 |      | 210 |      | 210 |    |

Again the total number of dwellings remains unchanged – this application would lead to a total of 210 dwellings being built across the whole site.

The number of 2-bed dwellings for market sale has been increased by 17 to 26 (previously it was just 9).

The number of 3-bed dwellings for market sale is reduced by 26 houses.

The number of 4-bed dwellings for market sale has been increased by 9 houses to a total of 101.

Planning policies are clear that the District Council should seek to promote mixed and inclusive communities. Policy RLP8 of the Adopted Local Plan states that the Council will seek the provision of a range of house types and sizes from one development site to another and within individual sites, in order to meet the local needs of the different household types. Policy LPP37 of the Section 2 Plan indicates that the Council will expect the housing mix to be in line with the identified local need '*set out in the 2015 SHMA update (or its successor), unless material considerations indicate otherwise*'.

Whilst the Section 2 Plan is yet to complete the examination and be adopted it is at an advanced stage which means that the policies can be given some weight, particularly where they are clearly supported by policies contained within the NPPF. Paragraphs 60 - 63 of the NPPF highlights the need for local planning authorities to deliver a wide choice of high quality homes. It goes on to state that the planning system should widen opportunities for home ownership and create sustainable, inclusive and mixed communities; plan for a mix of housing based on demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes); and, identify the size, type, tenure and range of housing required in particular locations, reflecting local demand.

Many members will remember that when the Reserved Matters application for this site was considered by Planning Committee in March 2019 the mix of Market Housing was the subject of much discussion. When the previously approved scheme was originally submitted there were no 1-bed market homes and just three 2-bed market homes out of 210 market houses. The vast majority of homes were originally proposed to be 4-bed homes (135 houses / 64.2% of the market housing).

After protracted discussions with Officers the developer improved the mix with the number of 2-bed homes increased to nine but the number of four bedroom houses reduced to 92 houses (43% of the market housing).

Whilst it is acknowledged that the market housing mix proposed by this application includes the provision of 17no. additional 2-bed houses this is at the expense of the relatively high level of 3-bed homes that led the Council to find the previously approved market housing mix was acceptable. Whilst the

additional 2-bed dwellings are an improvement, the level of provision still falls short of the level required to match the SHMA. Indeed, even with the increase, just 12.4% of market housing will 1 or 2-bed dwellings. This is below the minimum of 20% that the Council has secured through planning permissions for other housing developments. The revised mix also increases the number of 4-bed houses to 101. This would mean that almost 1 in 2 of all the market housing being provided on the development would be a 4-bed house. The SHMA indicates that the need for 4-bed houses should be just 20%, not the 48% proposed here by the applicant. Even if the SHMA is out of date, it would be incredible for the need for market housing in the District to have more than doubled in 6 years. Even if the need for 4-bed houses has increased, it is very unlikely to have doubled and Officers find it impossible to reconcile national planning policy to provide new housing that meets the needs of all sections of the community, and the desire to provide mixed and inclusive communities when the market housing mix is so heavily weighted towards houses with 4 or more bedrooms.

The applicant refers to a number of factors which have increased demand for large houses with four or more bedrooms and Officers do not dispute that the properties will be sold if they are built but need demand and need are not the same. The planning system should be delivering a range of housing types and sizes that will cater for different needs and income levels. It should also be remembered that these houses once built, will constitute part of the housing stock for decades to come. Whilst demand and financial return may be particularly strong for 4 bedroom houses at the moment, Officers consider that we should be providing a range of housing that will meet current and future needs of the community.

In summary the applicant's position in their planning statement is that the proposed housing mix is an improvement on that previously approved by virtue of the mix of Affordable Housing being more in line with the need identified in the SHMA. They then continue their argument that the Council should disregard the SHMA mix for market housing largely because of its age - it is now 6 years old. The applicant argues that the demand for large 4 bedroom houses justifies the mix that is now proposed. On this basis it would appear that the applicant is choosing to selectively pick evidence from the SHMA to suit their business. Whilst there is a fall-back position to be considered, Officers consider the mix of housing approved by the Reserved Matters to be preferable to that proposed by that this application and therefore attach no weight to this.

Officers consider the mix of both Affordable Housing and Market Housing to be unacceptable and contrary to policies contained within the adopted Development Plan; the Section 2 Plan and the NPPF.

#### Access and Highway Considerations

The application site is located at the northern end of the site that was granted Outline planning permission by the Planning Inspector. The red line of this application extends down to Western Road, through the southern part of the

site that is currently being built out under the previously approved scheme. The approved highway access arrangement has been constructed and is already in use. The junction with Western Road is formed with a new priority / T-junction on Western Road and has a 5.5 metres wide carriageway with 2m wide footway. As part of the works to form the access, the carriageway has been widened and the carriage realigned to create a 'ghosted right hand turn lane'.

Internally this application site will be served by a central spine road which runs centrally through the site and which provides connections to lower order streets that form part of the previously approved scheme. The spine road alignment and layout of local access streets has been designed to help reduce traffic speeds and enforce the 20mph speed limit.

The only additional connection into and out of the site would be the provision of a 3m wide pedestrian/cycle way linking the site to Daniel Way. It is proposed that pedestrian paths from this application site will connect to the pedestrian / cycleway connection onto Daniel Way.

The Highway Authority, Essex County Council, have been consulted on the current application but at the time of writing this report no response has been received. Officers will continue to chase for a response so the Planning Inspector will be aware of the Highway Authority's position. Whilst we do not have the Highway Authority comments the access was designed and constructed to the required specification, as were the roads through the first part of the development. With no amendments to these arrangements or to the number of dwellings that are proposed it is anticipated that the Highway Authority will raise no objection in this respect to the current application.

However, as the Council has not received a consultation response from the Highway Authority it is not known whether there are any issues with the internal arrangement of roads and footways within this proposed development. Planning Officers have identified that there are various instances where the relationship between parking spaces and the highway would not be acceptable including numerous instances where the setback between the footway and the parking bay is large enough to allow residents to park in a manner where their vehicles will obstruct the footway / carriageway. Officers will continue to chase the Highway Authority for their assessment and if this is received before the Committee meeting Officers will update Members.

The Council's adopted Parking Standards (2009) require that dwellings are provided with a minimum of 1 space per 1 bed unit and a minimum of 2 spaces for each dwelling with 2 or more bedrooms. In addition visitor parking is required, provided at a rate of 0.25 space for each dwelling.

Numerically the Parking Allocation Plan shows that each dwelling is provided with the requisite number of parking spaces. As with the previously approved scheme a range of parking solutions have been utilised, with allocated parking for the dwellings being provided either on plot; in parking courts; or in front of dwellings. However, as set out within the design section of this report, some of

the parking arrangements are not only worse than the previously approved scheme but Officers consider them to be poor design and unacceptable. Similarly the Parking Allocation Plan shows that there are 32 visitor spaces provided across the site, complying with the minimum level of provision required by the Parking Standards, however the distribution of spaces is poor meaning that many houses have no visitor parking near them – e.g. Plots 206-220 and across the northern end of the site. Visitors are unlikely to want to drive to inconveniently located visitor spaces and this is likely to result in cars being parked in the carriageway, or in other locations where parking is not desirable.

### Residential Amenity

The NPPF states that planning decisions should seek to '*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*'.

A noise impact assessment has been submitted with the application and this has been reviewed by the Council's Environmental Health Officer. The report includes data and analysis of noise generated from a number of sources, including Bradwell Quarry and the proposed Rivenhall Airfield Integrated Waste Management Facility, and assessed the impact on future residents of the development.

The reports identifies parts of the development and dwellings that will require specific measures to achieve the target internal noise levels and external noise levels within gardens. The required measures include the provision of 1.8 m high brick walls or other solid construction around various garden areas and the installation of standard double glazing and window ventilation systems.

The report has been reviewed by the Council's Environmental Health Officer who accepts the conclusion that no specific noise mitigation measures will be required to ensure that future occupiers of the development enjoy a reasonable standard of amenity in respect of noise.

The Essex Design Guide requires a minimum 25m separation distance for dwellings which sit in a back to back relationship, to ensure that residents enjoy a reasonable standard of amenity and that residents will have a reasonable sense of privacy in their homes and private amenity areas. Whilst the majority of proposed dwellings would meet this standard there is a block on the eastern side of the application site where the back to back distances are not met – including Plots 144-154; 146-153; 147-152; 141-157; 140-158. On some plots the separation distance is less than a metre below standard but on other plots it is over 2 metres. This is a further example of poor design which would diminish the residential amenity that occupiers of these houses would enjoy.

The Garden Compliance Plan appears to show that the dwellings have been designed to meet or exceed the minimum standards for private amenity

space, as specified in the Essex Design Guide. However, the Warwick housetype is described as a 2-bed housetype but the floorplans show that it contains two bedrooms on the first floor; a bathroom and a room labelled as a 'study'. The Council take the view that a room should be classified as a bedroom if a room within a dwelling is likely to be used for sleeping. Whilst clearly fitted kitchens, bathrooms and living rooms would not be counted as bedrooms a study or extra living or dining room which has a window could be used as a bedroom and should be deemed a bedroom regardless of what it is actually used for. On this basis Officers take the view that 17 out of the 19 market houses described by the applicant as 2-bed houses are in actual fact 3-bed houses. A property which has three rooms that can be used as bedrooms is likely to be predominantly occupied as a 3-bedroom property and given the size of the building is likely to have the purchase price of a 3-bedroom property. This further undermines the applicant's argument that an acceptable mix of market housing is being provided. Furthermore it indicates that the site is being over developed. Houses with 3-bedrooms are required to have private amenity space of 100sq.m or more. The Warwick houses shown on the layout have been designed with gardens significantly below that level and this constitutes a further reason for refusal.

Most of the dwellings meet the Nationally Described Space Standards (NDSS), however 6 of the apartments fall below the required NDSS. These flats are supposed to be designed as dwellings that can accommodate four people. The NDSS specifies a minimum internal space of 754sq.ft/70sq.m but these six apartments are identified in the schedule as only having an internal space of 704sq.ft/65.4sq.m. These dwellings form part of the Affordable Housing provision and the Council require that all Affordable dwellings meet the NDSS. All homes below the NDSS will provide a reduced standard of amenity for future occupants but Affordable Homes are more likely to always be fully occupied and tenants often have less choice over where they live than someone purchasing a market dwelling. Failure to provide all Affordable Housing to an acceptable standard is not acceptable and is further reason for refusal.

#### Impact upon Neighbour Amenity

The application site is directly bounded by existing dwellings to the west. The Essex Design Guide requires a 25m separation distance for dwellings which sit in a back to back relationship, such as that now proposed along the boundary with Daniel Way and Abraham Drive. All the proposed dwellings are located at least 15m from the site boundary and a minimum of 25m between the rear elevations of the opposing dwellings. The distance is greater for properties on Abraham Drive where the back to distances exceed 40m in some cases.

It is acknowledged that the construction of a housing development will result in noise and disturbance for local residents. A condition was imposed by the Inspector requiring the submission and approval of a Construction Management Plan which seeks to protect neighbour amenity, so far as is practicable, and if a separate planning permission were to be granted for this

site then construction activity would need to be controlled by condition in the same manner.

### Heritage

Policy RLP100 of the Adopted Local Plan and Policy LPP60 of the Section 2 Plan seeks to protect listed buildings and their settings. Whilst the NPPF also seeks to protect designated heritage assets such as this the approach is not consistent with Paragraph 202 which states that harm (less than substantial harm) to heritage assets to be balanced against public benefits.

When the application for Outline planning permission was refused by the Council the protection of heritage assets was one of the reasons for refusal, although ultimately the Planning Inspector disagreed with the Council's assessment and concluded that overall the effect of the scheme on the significance of the Conservation Area would be so limited that it should attract little weight in the planning balance.

The application is located at the back of the original application site, and as such is set back a long way from Western Road and the listed buildings that stand along it. Given the distance separating the site from the heritage assets and the fact that the part of the approved scheme is being built out on land in between, Officers have concluded that the proposed development would have no appreciable impact on the designated heritage assets.

### Landscaping

The application includes details for landscaping the scheme. The applicant's planning statement says that the same level of landscaping is proposed as in the approved scheme. This statement appears questionable with this landscaping scheme containing some notable omissions from the previously approved scheme. One example is the landscaping along the north south road on the western side of the site. There are fewer street trees along this road and reduced verges. This significantly reduces the extent of soft landscaping that was originally proposed to soften the extent of the hardstanding and help visually mitigate the prominence of parked cars.

Officers have some other concerns about aspects of the landscaping scheme, including the level of landscaping within some of the parking courts and the proposals for the green / open space at the northern end of the site. This is specified to contain formal planting, including a wildflower lawn and drifts of bulbs to encourage a range of wildlife. There is a limited amount of space available to plant and housing fronts on the green so it is likely there could be regular footfall and use of the space. If the space is regularly used then a wildflower meadow is not considered to be a suitable design response.

The Council's Landscape Officer was heavily involved in shaping the landscaping scheme that was developed for the previously approved scheme. Unfortunately at the time of writing this report they have been unable to provide a consultation response on the current proposals. If these are

received before the Committee meeting Officers will update Members on the advice that is received.

### Ecology

The application was supported by an Ecological Assessment relating to the likely impacts of development on Protected & Priority species. In addition, a Landscape and Ecological Management Plan was also submitted. These have been reviewed by the Council's Ecology Officer who initially advised that there was insufficient ecological information upon European Protected Species because the applicants Ecological Assessment has identified that Bat Activity Surveys and eDNA Surveys, initially carried out for the approved reserved matters application (Application Reference 18/01751/REM), and having been undertaken in 2018 are now 'out of date' with reference to the CIEEM Guidance.

The applicant's ecologist disagrees that the surveys are required and disagrees strongly that the surveys would be required before commencement of development. An additional technical note has been prepared setting out their position. At the time of publication of the Committee Report, further clarification is being sought from the Council's ecologist in respect of a further technical note that the applicant has submitted to the Council which argues that the additional survey that has been recommended is unnecessary and unjustified. An update will be provided to Members at Planning Committee in this regard.

Landscaping and Biodiversity enhancements: generally supportive of the proposals however, state that it would be preferable to include a Biodiversity Net Gain Assessment for this development, using the DEFRA Biodiversity Metric 3.0 (or any successor) to quantify this.

### Habitat Regulations Assessment (HRA / RAMS)

The application site falls within the 'Zone of Influence' (ZoI) of European designated sites scoped in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The development is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects.

The applicant has submitted a 'Shadow Habitats Regulations Assessment' which sets out the measures the developer would take to offset increased recreational pressure and avoid adverse effects to site integrity to these Habitats Sites, in line with the Essex Coast RAMS. The Council's ecologist advises that they agree with the conclusions of the applicant's assessment. If the application is approved, the Council would need to undertake its own Habitats Regulations Assessment (HRA) which would set out how the potential impact on the protected sites would be mitigated. As well as on-site measures this would have needed to include a financial contribution towards visitor management measures at the protected sites.



## Archaeology

In accordance with the planning conditions that the Inspector imposed on the Outline planning permission, the applicant has been required to carry out a scheme of archaeological investigation at the site. The scope of these works has been agreed with the Council's Historic Environment Advisers.

Whilst archaeological investigation of the area to the south of the application site was undertaken before development commenced in that area, further evaluation was required on the land which forms the current application site. The Council are not aware that the required fieldwork has been completed. In the event that planning permission was granted for the current proposal then there would need to be conditions which require that the fieldwork is carried out in an approved manner and that all the archaeological evaluation and fieldwork is recorded and reported appropriately.

## Flood Risk and Surface Water Drainage

The application site is located within Flood Zone 1 as designated by the Environment Agency. This means that the site is assessed to be at the lowest risk of flooding.

The Council have consulted the Lead Local Flood Authority on the proposals. The SuDS team at Essex County Council responded to request further information and clarification about the surface water drainage strategy would operate. The applicant has submitted information which seeks to address these concerns and the LLFA have been asked to review and provide an updated consultation response. A full response is yet to be received by the Council. As with other outstanding consultation responses, Officers will continue to chase for an updated letter of advice and if one is received before the committee meeting it will be reported to Members.

## PLANNING OBLIGATIONS

It is noted that many of the objections that have been received from local residents refer to infrastructure related matters, including health and education services; public transport; utilities; the road network in the village and district; and parking problems in the village. Whilst these objections are noted it must be remembered that the proposed 126 dwellings are not in addition to the 350 dwellings that the Planning Inspector approved in 2017.

The impact that the 126 dwellings will have on the village's infrastructure have already been considered when the Outline planning application and subsequent appeal were being considered. The Planning Inspector accepted that there were a number of issues where the developer was required to provide mitigation for this development. Land was secured for Essex County Council to use for the provision of Early Years & Childcare and financial contributions were required towards additional Early Years & Childcare and Primary School places; Secondary School transport; Open Space facilities;

and Health Services. Notwithstanding the content of the representations from some local residents, the Council would only be able to revisit these issues through this application if something material had changed since the Outline planning application was assessed which it not the case in respect of this application.

As this is a full planning application, a new legal agreement would be required in the event that planning permission were to be granted, in order that the relevant obligations are applied to the housing that would be built on this site. The agreement would also need to carefully review the planning obligations which relate to the housing that is currently being built out under the previously approved planning permission to ensure that all the obligations that were previously secured are retained and that financial contributions other obligations are discharged at the appropriate time.

The Council and applicant have not progressed the drafting of a legal agreement pursuant to this planning application. As this will now be determined by a Planning Inspector, Officers recommend that the absence of a legal agreement securing planning obligations is listed as one of the reasons that the Council would have refused the application if it were still able to determine the application.

### PLANNING BALANCE AND CONCLUSION

As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located outside of a designated town development boundary and is therefore located within the countryside where new development is 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. There is therefore a presumption that the application should be refused unless there are material reasons to grant planning permission.

Paragraph 60 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need. In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.27 years against its housing need. As such the Council is presently meeting this objective.

Until the adoption of the Section 2 Plan, the sites which are proposed to be allocated but do not yet have planning permission or a resolution to grant planning permission, have not been included within the Five Year Housing Land Supply calculation.

As such, although the Council can currently demonstrate a Five Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the five year threshold.

As the Council can demonstrate the required Five Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).

In this case the basket of policies which are considered to be the most important for determining the application include the following: Policies SP1, SP3, SP6 and SP7 of the Section 1 Plan; Policies LPP33, LPP37, LPP82 of the Draft Section 2 Plan; Policies RLP7, RLP8, RLP9, RLP84, RLP90 and RLP138 of the Adopted Local Plan; and Policies CS2, CS8 and CS10 of the Core Strategy.

Policy SP1 of the Section 1 Plan states that, when considering development proposals, the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts. Further growth will be planned to, amongst other things, ensure existing settlements maintain their distinctive character and role. As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered the policy is consistent with the NPPF and can be afforded full weight.

Policy SP7 states that all new development must meet high standards of urban and architectural design. Specifically new development will need to respond positively to local character and context to preserve and enhance the quality of existing places; provide buildings that exhibit architectural quality within well-considered public and private realm; provide streets and spaces that are overlooked and active; and provide parking facilities that are well integrated as part of the overall design. As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered the policy is consistent with the NPPF and can be afforded full weight.

Policies RLP7, RLP8 and RLP9 of the Adopted Local Plan state that new residential development should seek to achieve mixed communities with a range of house types and sizes within individual sites in order to meet local need of different household types. New development must be to a high

standard of design and be in character with the site and relate to its surroundings. Policy RLP90 of the Adopted Local Plan sets out that new development should recognise and reflect or enhance local distinctiveness. The layout and overall elevational design of buildings should be in harmony with the character and appearance of the surrounding area. These policies are all considered to be broadly consistent with the NPPF and should be afforded full weight.

Policy LPP37 of the Section 2 Plan 2 also states that new development should seek to create sustainable, inclusive and mixed communities through providing a mix of house types and size which reflects local need. The housing mix should be in line with the identified local need as set out in the 2015 SHMA update (or its successor), unless material considerations indicate otherwise and all new development should be in accordance with the national technical housing standards. Although at a relatively advanced stage the Section 2 Plan has not yet been adopted and this fact diminishes the weight that can be given to this policy but is still reasonable to attach significant weight to this policy due to the level of consistency with the NPPF on this issue.

Paragraph 63 of the NPPF recognises the need for onsite affordable housing stating that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site. Policy CS2 of the Core Strategy requires developers to provide affordable housing on site with a target of 40% affordable housing on sites outside the main urban areas including Silver End. It is clear that significant weight must be attributed to this policy. Policy LPP33 of the Section 2 Plan again states that 40% of housing on major developments in locations including Silver End shall be provided as Affordable Housing. A mix of units will be required to reflect the current local need. Although at a relatively advanced stage the Section 2 Plan has not yet been adopted and this fact diminishes the weight that can be given to this policy but is still reasonable to attach significant weight to this policy due to the level of consistency with the NPPF on this issue.

Policy CS8 of the Core Strategy states that all development proposals will take account of the potential impacts of climate change and ensure the protection and enhancement of the natural environment, habitats and biodiversity and geo-diversity of the District. Policy RLP84 replicates this expectation of protection by stating that 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, will not be accepted. It is considered that these policies should be given significant weight.

Policy SP6 of the Section 1 Plan states that all development must be supported by the provision of services, infrastructure and facilities that are identified to serve the needs arising from the development. Policy CS10 of the Core Strategy seeks to ensure that there is a good provision of high quality and accessible green space, including allotments and publicly accessible

natural green space, to meet a wide range of recreation, outdoor sport and amenity needs in District by retaining existing sports facilities, green spaces, allotments, and open space used for amenity, recreation or sport. It also requires new development to make appropriate provision for publicly accessible green space or improvement of existing accessible green space. Policy RLP138 of the Adopted Local Plan states that in proposals for new residential development, the District Council will require land to be made available for open space. The open space will be for play areas and for formal recreation and shall be adequate in terms of size and location to meet the needs of the development that it serves. It is considered that these policies should be given significant weight. LPP82 of the Section 2 Plan sets out that the Council will require developers to contribute towards the provision of social infrastructure to mitigate the impact of new development, either through provision on-site or off-site. The policy is considered to be consistent with the NPPF however due to the stage of the Section 2 plan this is afforded only limited weight at the current time.

When considering the basket of the most important policies for the determination of this application as a whole, it is considered that in the main these policies are not out-of-date and are broadly consistent with the Framework.

Given that the Council can demonstrate a Five Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untilted) planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.

In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. 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).

## Summary of Adverse Impacts

A number of potential adverse impacts are evaluated below. The degree to which harm is caused, and the weight that should be accorded to this harm, is set out below:

### Conflict with the Development Plan

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “*genuinely plan led*”.

The proposed development would conflict with Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy, with regard to the Council’s spatial strategy, because it proposes development outside of defined development boundaries and within the countryside, albeit not arguably because it offends the wider countryside preservation interests specifically acknowledged within this policy. This conflict is afforded limited weight as the proposal would accord with the Section 2 Plan and already has the benefit of an extant planning permission - a factor which must be given significant weight. With regards to the principle of residential development on this site there is no significant harm arising from the conflict set out above.

### Housing Mix

Whilst a policy compliant number of Affordable Dwellings are proposed by the applicant, the mix is not considered to represent what is required to meet local housing need. The Council has identified local need with reference to the housing needs register; developing trends in local need; the mix of Affordable Housing that has been delivered and which will be coming forward through other residential developments in the area. The Affordable Housing mix proposed would not adequately address local housing need, conflicting with local and national policies.

Similarly the proposed mix of market housing is not considered to be acceptable. The previously approved market housing mix was far from ideal, but Officers consider that this provided a better mix of dwellings than is now proposed. If approved, this application would result in almost half of new market houses on this development consisting of 4-bed houses. Whilst there may be a demand for this mix of dwellings Officers do not consider it will support the development of a truly mixed community, offering a range of house types and sizes which can meet a wide range of housing need, contrary to local and national planning policies. This harm is attributed significant weight.

### Design and Appearance

As set out within this report, Officers consider that the proposed layout and the design of the housing is not acceptable. Not only does it constitute a

dilution of the overall scheme that was originally approved for the site, which is frustrating given that the site was planned carefully as part of a larger extension to the village, but the design and layout contains numerous examples of poor design which would be contrary to both local and national design policies. Whilst not an exclusive list, elements of the proposals that conflict with these policies include: changes to the elevational treatment to the houses and extensive use of materials which are not reflective of the local character; the standard of residential amenity that future residents of some of the properties would have; inadequate provision of private amenity space for some dwellings; and the poor arrangement of car parking both in terms of usability and visual appearance.

The Planning Practice Guidance states that local authorities should not accept proposals which dilute the quality of schemes that have already been granted planning permission and the Officer view is this is what these proposals would result in. Even if the development were assessed in isolation and not measured against the previously approved scheme, the proposals are not considered to be of a suitably high standard and fail to meet some of the Council's design standards. All these factors combined constitute harm which is attributed significant weight.

#### Sterilisation of a Mineral Resource

This issue was considered by the Planning Inspector when the Outline planning permission was approved at appeal. The site was neither a preferred, or reserve site for mineral extraction. The Inspector gave only limited weight to the fact that the development would result in sterilisation as prior extraction was unlikely to be a practical solution here. This current application would not alter the fact that a mineral resource would be sterilised, however given that there is an extant planning permission no significant weight should be attributed to this harm.

#### Landscape Character

The Inspector judged that the whole scheme would result in moderate harm to landscape character with some significant adverse visual impacts for some footpath users. However, with the larger southern part of the site already being developed which will already have changed how this application site is perceived. In addition it is not considered that there are changes to layout or building heights that would significantly differ from the previously approved scheme in terms of impact on landscape character. Again no significant weight should be attributed to this harm.

#### **Summary of Public Benefits**

A number of potential benefits are evaluated below. The degree to which these constitute benefits, and the weight that should be accorded to them, is set out below:

### Delivery of Market and Affordable Housing

The proposal would bring forward a different scheme to that which has already been approved. This development would deliver the same number of Affordable and Market Homes as the consented scheme. The delivery of Affordable and Market Housing is clearly a benefit but approval of this scheme would not bring forward any additional benefit over and above that which the already consented scheme would do. It is noted that the Planning Inspector attached substantial weight to the social and economic benefits of the delivery of housing, including affordable housing. This remains a benefit although Officers consider the housing mix now proposed for Market and Affordable Housing is worse than the approved scheme and as such the mix of housing means the housing that would be delivered would have a reduced level of benefit and Officers consider no significant weight should be given to this benefit.

### Open Space

The proposed development would provide public open space on the site, however as with Market and Affordable Housing the open space provision is no greater than was secured through the previously approved scheme and for the same reason no significant weight should be given to this benefit in the planning balance.

### Economic Benefits

As with any housing development of this size there will be economic benefits arising from the development, both initially during the construction phase, and in the long term when the dwellings are occupied and additional residents are living in the village / district and contributing to the economy through employment and the consumption of goods and services. The benefits are however not significantly different to the benefits that would arise if the extant permission were implemented, and as a result Officers would not attribute any significant additional weight to this benefit in respect of this application.

### Infrastructure Improvements

Assuming they were secured through a suitable Section 106 Agreement, the development would provide financial contributions towards improvements to Outdoor Sport, Allotments, Healthcare and Education facilities in the area. These benefits are not regarded to be significant as they were assessed to be the minimum required to mitigate the impact of the development on the areas social infrastructure and in any event are not likely to be any more than was secured by legal agreement through the previously approved scheme.

### Planning Balance

When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of



the NPPF as a whole, Officers have concluded that the benefits of the proposal are outweighed by the harms. Consequently it is recommended that planning permission is refused for the proposed development.

Notwithstanding the above, even if the 'tilted balance' was engaged, it is considered that the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be recommended that planning permission be refused for the proposed development.

## RECOMMENDATION

It is RECOMMENDED that the following decision be made:

Application REFUSED for the following reasons:-

1 The proposal when assessed as a whole fails to provide the high standard of design required by local and national planning policies. The proposed development fails to reflect local distinctiveness through use of the developer's standard house types and fails to link the development architecturally to the existing village as had been intended through the previously approved development on this land and would result in the development having a detrimental impact on the character and appearance of the village.

The layout results in poor townscape with some unattractive vistas and a public realm that fails to meet the standards of a previously approved scheme, or the housing development that is being built out by the applicant to the south of this site. Concerns about the public realm include the landscaping of streets where there is perpendicular parking and large uninviting hard standings which form rear parking courts.

The proposed layout also fails to meet the Council's adopted design standards in respect of residents' amenity. The Essex Design Guide states that new properties should be separated by a minimum of 25 metres where properties back on to each other, to prevent overlooking and loss of privacy. The Essex Design Guide also specifies that properties with three or more bedrooms should be provided with a minimum of 100sq.m of private amenity space, with this being found to be an acceptable and workable minimum size that accommodates most household activities, adequate visual delight, receive some sunlight and encourage plant growth. A number of plots contain the Warwick house type which has three first floor rooms that are large enough to be used as bedrooms but these houses have been provided with less private amenity space than the required minimum standard. The arrangement of car parking often results in the car of neighbouring properties overhanging properties, or in some cases being located squarely in front of a neighbour's property. Whilst there are areas where this has been mitigated there are others where it has not which will result in residents being disturbed

by neighbour's movements again diminishing the quality of neighbour amenity.

The development would therefore be contrary to Policies RLP2, RLP9 and RLP90 of the Adopted Local Plan (2005), Policies SP1, SP3 and SP7 of the Adopted Section 1 Local Plan (2021), Policies LPP1, LPP37 and LPP55 of the Draft Section 2 Plan (2017), and the NPPF.

2 The NPPF states that the local housing market need assessment should be used to determine the size, type and tenure of housing needed for different groups in the community including, but not limited to, those who require affordable housing.

The mix of market housing proposed is not at all reflective the need identified within the Strategic Housing Market Assessment and would result in a development where 48% of the market housing would be 4-bed houses. The mix of market housing would fail to adequately provide a mix of housing that contribute towards the creation of a mixed community with housing that will help meet housing need from all sections of the community.

The proposed mix of Affordable Housing is also unacceptable to the Council. Policy LPP37 of the Section 2 Plan states that developments should provide a mix of house types and size which reflects local need. It goes on to state that the housing mix should be in line with the identified local need as set out in the 2015 SHMA update (or its successor), unless material considerations indicate otherwise. The Council have previously agreed a mix of Affordable Housing for this site which includes more larger dwellings than is proposed within this application. Policy LPP37 allows a different mix of housing to that proposed in the SHMA if material considerations dictate. Using data from the housing register as well as local knowledge of developing trends in the need for Affordable Housing the Council has previously agreed a mix of Affordable Housing which includes more larger dwellings. As such the proposed mix is not acceptable and will not allow the Council to meet the local affordable housing need.

In addition not all of the proposed Affordable Housing would comply with the Nationally Described Space Standards. As tenants in the affordable units may have less choice in whether they live there and as the affordable units are likely to be fully occupied the majority of the time failure to meet minimum internal space standards will inevitably result in diminished residential amenity for those residents.

The development would therefore be contrary to Policies RLP7, RLP8, and RLP9 of the Adopted Local Plan (2005), Policies LPP1, LPP33, LPP37 and LPP55 of the Draft Section 2 Plan (2017), and the NPPF.

3 Adopted policies and Supplementary Planning Documents applicable to the proposed development would trigger the requirement for:

- The provision of 40% of the housing on the site as affordable housing

- Financial contribution towards the provision of Early Years & Childcare provision; Primary School education and secondary school transport
- Provision of serviced Education Land & payment towards associated Traffic Regulation Order
- Financial contribution towards the provision of primary health care
- The provision, delivery and maintenance of Public Open Space on-site
- Financial contribution towards the provision of off-site Open Space
- Residential Travel Plans and Residential Travel Packs
- Financial contribution to fund off-site Visitor Management at the Blackwater Estuary Special Protection Area & Ramsar site; the Dengie Special Protection Area and Ramsar site; and the Essex Estuaries Special Area of Conservation

This requirement would be secured through a S106 Agreement, which will also need to ensure that obligations in respect of the housing development currently being built out to the south of the application site are also secured. At the time of issuing this decision a S106 Agreement has not been prepared or completed.

In the absence of securing such planning obligations the proposal is contrary to Policies CS2 and CS10 of the Adopted Core Strategy (2011), Policy RLP138 of the Adopted Local Plan (2005), Policy SP2 of the Adopted Section 1 Local Plan (2021), Policies LPP33 and LPP53 of the Draft Section 2 Local Plan and the Open Space Supplementary Planning Document (2009).

### SUBMITTED PLANS

|                                |                          |                   |
|--------------------------------|--------------------------|-------------------|
| Landscape Masterplan           | Plan Ref: 16018-114      | Version: B        |
| Other                          | Plan Ref: 18016-113      | Version: B        |
| Other                          | Plan Ref: 18016-115      | Version: B        |
| Other                          | Plan Ref: 18016-116      | Version: B        |
| Play Area Plan                 | Plan Ref: 18016-117      |                   |
| Drainage Details               | Plan Ref: 1805-177-SK900 | Version: P10      |
| Visibility Splays              | Plan Ref: 1805-177-SK905 | Version: P08      |
| Levels                         | Plan Ref: 1805-177-SK908 | Version: P09      |
| Other                          | Plan Ref: 1805-177-SK919 | Version: P03      |
| Other                          | Plan Ref: 1805-177-SK920 | Version: P03      |
| Lighting Plan                  | Plan Ref: 8552-42-1-001  | Version: A        |
| Location Plan                  | Plan Ref: 8625-01        |                   |
| Elevations<br>& 2              | Plan Ref: 8625-127       | Version: Blocks 1 |
| Site Plan                      | Plan Ref: 8625-202       |                   |
| Boundary Treatment             | Plan Ref: 8625-213       |                   |
| Public Open Space Details      | Plan Ref: 8625-216       |                   |
| Proposed Floor Plan<br>Four Bk | Plan Ref: 8625-30        | Version: Warwick  |
| Proposed Elevations<br>Four Bk | Plan Ref: 8625-31        | Version: Warwick  |

|                                     |                    |                                |
|-------------------------------------|--------------------|--------------------------------|
| Proposed Elevations and Floor Plans | Plan Ref: 8625-32  | Version: Warwick CT            |
| Proposed Elevations and Floor Plans | Plan Ref: 8625-33  | Version: Warwick CT            |
| Proposed Floor Plan Letchworth      | Plan Ref: 8625-35  | Version:                       |
| Proposed Elevations Letchworth      | Plan Ref: 8625-36  | Version:                       |
| Proposed Elevations and Floor Plans | Plan Ref: 8625-37  | Version: Amberley              |
| Proposed Elevations and Floor Plans | Plan Ref: 8625-38  | Version: Oxford                |
| Proposed Elevations and Floor Plans | Plan Ref: 8625-39  | Version: Oxford                |
| Proposed Elevations and Floor Plans | Plan Ref: 8625-40  | Version: Stratford             |
| Proposed Elevations and Floor Plans | Plan Ref: 8625-41  | Version: Stratford             |
| Proposed Elevations and Floor Plans | Plan Ref: 8625-42  | Version: Windsor               |
| Proposed Elevations and Floor Plans | Plan Ref: 8625-43  | Version: Windsor               |
| Proposed Elevations and Floor Plans | Plan Ref: 8625-44  | Version: Leamington            |
| Proposed Floor Plan                 | Plan Ref: 8625-45  | Version: Chester               |
| Proposed Elevations                 | Plan Ref: 8625-46  | Version: Chester               |
| Proposed Elevations                 | Plan Ref: 8625-47  | Version: Canterbury            |
| Proposed Floor Plan                 | Plan Ref: 8625-48  | Version: Canterbury            |
| Proposed Elevations and Floor Plans | Plan Ref: 8625-49  | Version: Tavy                  |
| Proposed Elevations and Floor Plans | Plan Ref: 8625-50  | Version: Dart                  |
| Proposed Floor Plan                 | Plan Ref: 8625-51  | Version: Housetype Q           |
| Proposed Floor Plan                 | Plan Ref: 8625-53  | Version: Letchworth Special    |
| Proposed Elevations                 | Plan Ref: 8625-54  | Version: Letchworth Special    |
| Proposed Floor Plan                 | Plan Ref: 8625-55  | Version: Hampstead             |
| Proposed Elevations and Floor Plans | Plan Ref: 8625-56  | Version: Hampstead             |
| Proposed Elevations and Floor Plans | Plan Ref: 8625-58  | Version: The Tweed             |
| Garage Details                      | Plan Ref: 8625-60  | Version: Single                |
| Garage Details                      | Plan Ref: 8625-61  | Version: Double                |
| Proposed Floor Plan                 | Plan Ref: 8625/125 | Version: Apartment Block 1 & 2 |
| Proposed 2nd Floor Plan             | Plan Ref: 8625/126 | Version: Apartment Block 1 & 2 |
| Other                               | Plan Ref: 8625/128 | Version: Cycle store           |
| Proposed Block Plan                 | Plan Ref: 8625/200 |                                |
| Site Plan                           | Plan Ref: 8625/201 |                                |
| Street elevation                    | Plan Ref: 8625/204 | Version: A                     |

|  |                    |
|--|--------------------|
| Management plan                        | Plan Ref: 8625/205 |
| Other                                  | Plan Ref: 8625/206 |
| Storey Height                          | Plan Ref: 8625/207 |
| Parking Strategy                       | Plan Ref: 8625/208 |
| Refuse Information                     | Plan Ref: 8625/209 |
| Affordable Housing Plan                | Plan Ref: 8625/210 |
| Materials Details                      | Plan Ref: 8625/211 |
| Boundary Treatment                     | Plan Ref: 8625/212 |
| Parking Strategy                       | Plan Ref: 8625/214 |
| Other                                  | Plan Ref: 8625/215 |
| House Types                            | Plan Ref: 8625/217 |
| Other                                  | Plan Ref: 8625/218 |
| Proposed Elevations                    | Plan Ref: 8625/52  |
| Proposed Elevations<br>and Floor Plans | Plan Ref: 8625/57  |

Version: Housetype Q

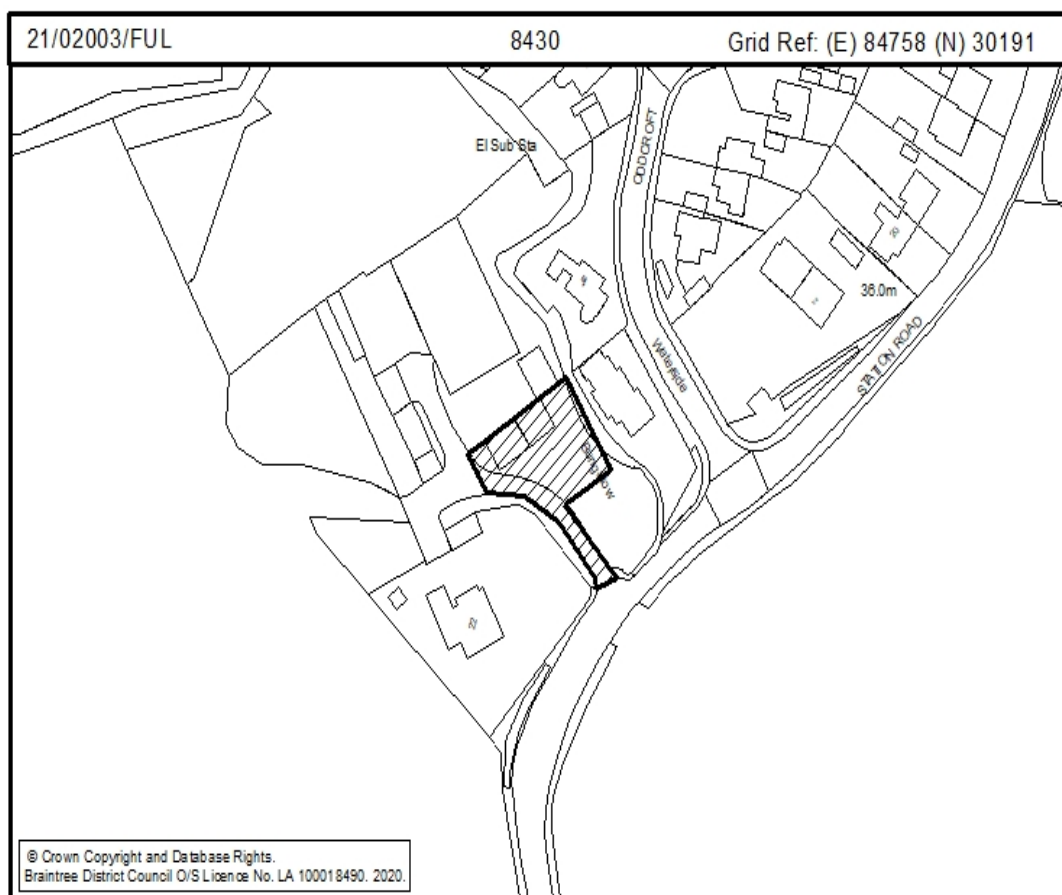
CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## PART A

## AGENDA ITEM NUMBER 5c

APPLICATION NO: 21/02003/FUL      DATE: 01.07.21  
VALID:  
APPLICANT: Mr George Courtauld  
Knight's Barn, Colne Engaine, Colchester, CO6 2JG, United Kingdom  
AGENT: Courtauld & Co.  
Mr George Courtald, Knight's Farm, Colne Engaine,  
Colchester, CO6 2JQ, United Kingdom  
DESCRIPTION: Conversion of agricultural barn into 1 x 2 bedroom  
bungalow.  
LOCATION: Brook Farm Barns, Station Road, Colne Engaine, Essex,  
CO6 2ES

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QV3L6BBFM5400>

## SITE HISTORY

|                |  |                                   |          |
|----------------|--|-----------------------------------|----------|
| 03/02044/COU   | Change of use of redundant rural buildings to B1 use   | Granted                           | 10.02.04 |
| 08/00682/FUL   | Change of use of traditional buildings to a residential use with a work unit - APPLICATION NOT PROCEEDED WITH  | Application Returned              |          |
| 20/00831/COUPA | Prior approval for the change of use of agricultural building to a dwellinghouse (Class C3), and for associated operational development - Change of use to 5 no. residential dwelling  | Withdrawn                         | 08.09.20 |
| 20/01817/COUPA | Prior approval for the change of use of agricultural building to a dwellinghouse (Class C3), and for associated operational development - Change of use to 5no. residential dwellings. | Prior Approval Required and Given | 10.02.21 |
| 21/02804/FUL   | Conversion of barn to form 3 x 3 bedroom dwellings.  | Pending Consideration             |          |

## 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 |
| RLP38 | Conversion of Rural Buildings                     |
| RLP56 | Vehicle Parking                                   |
| RLP74 | Provision of Space for Recycling                  |
| RLP80 | Landscape Features and Habitats                   |
| RLP81 | Trees, Woodland Grasslands and Hedgerows          |
| RLP90 | Layout and Design of Development                  |

#### 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)

|     |   |
|-----|---|
| SP1 | Presumption in Favour of Sustainable Development                  |
| SP2 | Recreational disturbance Avoidance and Mitigation Strategy (RAMS) |
| SP3 | Spatial Strategy for North Essex                                  |
| SP4 | Meeting Housing Needs   |
| SP7 | Place Shaping Principles  |

#### Braintree District Draft Section 2 Local Plan (2017)

|      |                        |
|------|------------------------|
| LPP1 | Development Boundaries |
|------|------------------------|



|       |  |
|-------|--|
| LPP42 | Residential Conversion of Buildings in the Countryside             |
| LPP45 | Parking Provision  |
| LPP50 | Built and Historic Environment                                     |
| LPP55 | Layout and Design of Development                                   |
| LPP70 | Protection, Enhancement, Management and Monitoring of Biodiversity |
| LPP71 | Landscape Character and Features                                   |
| LPP78 | Flooding Risk and Surface Water Drainage                           |

## 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 applicant is related to a Member of Braintree District Council.

## DESCRIPTION OF THE SITE AND SITE CONTEXT

Brook Farm Barns are located adjacent to the southern boundary of the Village Envelope for Colne Engaine but outside of a development boundary, and therefore the site is within the countryside for the purposes of the planning regime.

Prior approval has been given for three of the former agricultural buildings to the north of the application building for the change of use to 5 residential dwellings under Application Reference 20/01817/COUPA, dated 10th February 2021. This is the maximum number of units permitted by Class Q of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The application site is approximately 310sq.m in area and the building is a typical small agricultural building with gable ends. It is of brick built construction with 3 bay openings, double doors and an enclosed section on the southern elevation.

There are residential properties to the north and east of the site, within Oddcroft, and to the south-west, at No.22 Station Road, which is also known as Brook Farm House.

There is an existing access to the application site which is shared with the dwelling at Brook Farm House and the proposed other five dwellings. There is a brook running to the west of the site, which is within Flood Zone 1 and 2. There are also several trees adjacent to the site's western boundary and on the open area to the east of the access.

## PROPOSAL

This application seeks planning permission for the conversion of the former agricultural barn into a 2-bed bungalow. The proposal would involve infilling the existing openings with timber weatherboarding, with windows above and

installing 2 doors all on the southern elevation. A small extension is also proposed on the eastern end of the building to provide a bin store and boiler room. Five roof-lights would be installed on the northern roof slope. The roof will be re-clad with clay pantiles with timber bargeboards on the gable ends.

The floor plans indicate that the en-suite bedrooms would be located at either end of the building. The central section would provide an open plan living space with a seating area, kitchen and dining room. The rear of the building would form the rear boundary of the application site and no windows are proposed in this elevation.

Two parking spaces are proposed each measuring 2.9m x 5.5m, together with amenity space in the region of 170sq.m to the front and east side. The site plans and application form indicate that existing trees would be retained.

The application is accompanied by a Flood Risk Assessment, Environmental Assessment and Biodiversity Report which were submitted with application reference 20/01817/COUPA, together with a Structural Survey and Bat Survey. An updated Flood Risk Assessment has also been provided in relation to this barn specifically.

## SUMMARY OF CONSULTATION RESPONSES

### Essex County Fire & Rescue Service

No objection.

### ECC Highways

ECC Highways comment that given the scale of the proposed development and the area available for parking, the proposal is acceptable.

### BDC Environmental Health

No objections.

### BDC Ecology

BDC Ecology raises no objection to the proposal subject to securing a contribution towards visitor management measures for the Blackwater Estuary SPA/Ramsar Site, Dengie SPA/Ramsar Site and Essex Estuaries SAC and conditions in relation to ecological mitigation and enhancement measures.

## PARISH / TOWN COUNCIL

### Colne Engaine Parish Council

No response has been received from the Parish Council.

## REPRESENTATIONS

No representations have been received in connection with this application.

## REPORT

## PRINCIPLE OF DEVELOPMENT

### National Planning Policy Framework (NPPF) 2021

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 60 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 74 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District) our 'local housing need' plus the relevant buffer.

### The Development Plan

Currently the Council's statutory Development Plan consists of the Braintree District Local Plan Review (2005), the Braintree District Core Strategy (2011), and the Shared Strategic Section 1 Plan (2021).

The application site is located outside the Colne Engaine village envelope. Subsequently, the principle of new residential development is not accepted, as established by Policy RLP2 and RLP3 of the Adopted Local Plan and Policy LPP1 of the Section 2 Plan.

However, the proposal involves the conversion of an existing building in the countryside to residential use. Policy RLP38 of the Adopted Local Plan permits the conversion of such buildings, only where the applicant has made every reasonable effort to secure suitable employment or community re-use and the application is supported by a statement of the efforts that have been made, or where residential conversion is a subordinate part of a scheme for business re-use of the building, which is not the case here. Policy LPP42 of the Section 2 Plan takes a more pragmatic view by allowing for the principle of residential conversions of rural buildings that are of a permanent and substantial construction and are capable of conversion without being completely rebuilt, subject to the site being within an acceptable and sustainable location, acceptable impact on protected species/heritage assets, suitable existing access, acceptable impact on residential amenity and on the character of the countryside. The application proposal is broadly compliant with this policy, and whilst only limited weight can be given to the policy, it does give an indication of the direction of travel in respect of the conversion of rural buildings.

Notwithstanding this, and as highlighted above, the barns to the rear of the application site, benefit from planning permission granted by virtue of Class Q Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Development in connection with this prior approval application has commenced, and therefore this permission can be implemented in full. The implementation of this permission would change the nature and immediate context of the site, creating a small and relatively self-contained residential development. As such, and given the change in the context of the site and its surroundings following the implementation of the prior approval application, which the application site, subject to this application, would form an integral part of, it is not considered to be appropriate to require the marketing of the building for commercial purposes as required by Policy RLP38 of the Adopted Local Plan. The proposed conversion of the building to residential use is therefore considered to be acceptable on this basis.

### 5 Year Housing 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 2021. Within this trajectory the Council considered that it has a 5.34 year supply of housing, based on a 5% buffer.

At its full Council on the 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Local 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. 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 Council's Housing Land Supply position has recently been contested as part of an appeal at Land North of Station Road, Earls Colne (APP/Z1510/W/21/3267825). Within the appeal decision dated 12th November 2021 the Inspector concluded at Paragraph 56 that:

*“Consequently, the Council cannot demonstrate a five-year supply of housing land and I consider the Council’s housing land supply position to lie in the region of between about 4.7 and 4.9 years.”*

This conclusion was reached as a result of the removal by the Inspector of the whole or part of the contribution from four contested sites in the Council's deliverable supply: Land east of Broad Road; Towerlands Park; Land between Long Green and Braintree Road; and Land North of Oak Road.

The Council has reviewed its housing supply position in light of the Station Road, Earls Colne decision, which is not binding. Notwithstanding the Inspector's conclusions, the Council maintains that it can demonstrate in excess of a five-year supply of deliverable housing sites.

Concluding on a site's deliverability – and specifically whether there is a realistic prospect that housing will be delivered within five years – is a matter of planning judgment. The Courts have confirmed that for there to be a realistic prospect there does not need to be certainty or even probability that sites will deliver within 5 years. The Council considers that, in a number of respects, the Inspector took an overly pessimistic approach to deliverability in light of the evidence available at the date of the hearing.

Furthermore, since the hearing date, further progress has been made on number of the sites which the Inspector chose to discount from the supply, and therefore the evidence of deliverability has moved on from that which was available to the Inspector.

Having undertaken the review, and on the basis of the latest available evidence, the Council can demonstrate a 5.27 year supply of housing (the slight reduction from 5.34 years is as a result of removing a couple of small sites where permission has expired, and a reassessment of the trajectory on Land east of Broad Road).

As such the Council considers that it can still demonstrate 5 year deliverable supply of housing land and therefore the 'tilted balance' pursuant to

Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply.

In addition, the current supply position does not include sites which are proposed to be allocated within the Section 2 Plan but do not yet have planning permission or a resolution to grant planning permission.

These allocations without permission are being tested at the Section 2 Plan Examination. Once the Section 2 Plan is adopted, these sites will become adopted allocations and greater weight can be given to them. It will also improve the prospects of these being included within the deliverable supply, where there is clear evidence that there is a realistic prospect that housing will be delivered on the site within five years.

## SITE ASSESSMENT

### Location and Access to Services and Facilities

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

The strategy set out in the Section 1 Plan and Section 2 Plan is to concentrate growth in the most sustainable locations - that is, by adopting a spatial strategy that promotes development in the most sustainable locations, where there are opportunities for walking, cycling and public transport links to nearby shops, services and employment opportunities. This means for the new Local Plan: "That the broad spatial strategy for the District should concentrate development in Braintree, Witham and the A12 corridor, and Halstead".

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

The application site is located outside of but abuts the Colne Engaine Village envelope and is clearly within a close walking distance of the limited facilities that the Village offers. Colne Engaine is classed as an 'other' village in the Adopted Core Strategy and a 'Third Tier' village in the Section 2 Plan Settlement Hierarchy. Third Tier villages are the smallest villages in the District and lack most of the facilities required to meet day-to-day activities, often with poor transport links. When considering the tests of sustainable development, these will not normally be met in Third Tier Villages.

The nearest large village is Earls Colne which is approximately 1 mile away from the site. Colne Engaine does benefit from some local facilities, including a Village Hall with play area and recreation ground, Village Shop, Church, Primary School and Pre-school, Public House and regular bus route to Colchester, which is within a similar distance to Braintree.

It is considered likely that there would be a reliance on the private car to travel between the site and the nearest Key Service area, but that some day to day facilities do exist in the village which would be reasonably accessible to the occupiers of the site.

### Design and Appearance

Paragraph 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 130 of the NPPF states new development should, amongst other things, ensure that developments will function well and add to the overall quality of the area, be visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting, creating places that are safe and offer a good quality of life.

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan require a high standard of design in all new development. The scale, density, height and massing of buildings should reflect or enhance local distinctiveness; there should be no undue or unacceptable impact on the amenity of any nearby residential properties; the layout, height, mass and overall elevational design of buildings and developments should be in harmony with the character and appearance of the surrounding area.

The proposal would involve the re-use and conversion of an existing building in a way that would be respectful of its design and original function. Interference with the structure is minimal with only a small extension required. The amenity space would be created within the existing landscape setting. The building would form part of a wider relatively self-contained small residential development. The re-use of the building which sits at the front of the wider site and is viewable from the road, is considered to be sympathetic and appropriate in terms of its design and appearance and would provide an appropriate setting and entrance building into the wider development. Regard is also had for the wider setting in terms of the barns to the rear and the placing of car parking spaces. It is therefore considered that the design and appearance is acceptable and would be in harmony with the context of the site and its surroundings. This weighs in favour of the proposal in the planning balance.

### Impact on Neighbouring Residential Amenities

Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Section 2 Plan also emphasise the need to protect the amenity of nearby properties, by mitigating impact on privacy, overshadowing, loss of light, or overbearing impact.

As referred to above, this is the conversion of an existing building and it is noted that the other buildings to the rear have an extant permission for

residential conversion. There is sufficient space around the building and towards existing dwellings in 'Oddcroft' to the east, together with natural screening to ensure that overlooking is mitigated. Roof-lights are proposed on the rear roof-slope to ensure that overlooking is avoided of the proposed conversions to the rear. As such, the impact on neighbouring residential amenity is considered acceptable.

### Proposed Residential Amenity

The NPPF and above policies also require that consideration is given to the amenity of potential occupiers of new development. The internal space within the barn is open plan with windows to the front and roof-lights to the rear. The habitable space combining a seating/dining and kitchen area is spacious and well-lit with south-facing windows and roof-lights to the rear. Amenity space in the region of 170sq.m would be provided to the front and sides and would be well-screened by existing vegetation. This exceeds the Council's adopted standards in The Essex Design Guide recommendation of a minimum garden size of 50sq.m for a 2-bed dwelling.

The proposed dwelling would therefore benefit from a good level of internal and external amenity and as such is acceptable.

### Highway Considerations

Paragraph 111 of the NPPF indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Policy RLP56 of the Adopted Local Plan and Policy LPP45 of the Section 2 Plan require that all new development is provided with sufficient vehicle parking spaces in accordance with Essex County Council's Vehicle Parking Standards. For a new dwelling with two or more bedrooms the standards prescribe two spaces measuring 2.9 metres by 5.5 metres.

Two spaces are proposed to the front and west side of the dwelling to the size recommended in the Standards. The proposal is therefore compliant in this regard. No objections have been raised by ECC Highways. It is therefore concluded that the development would not have an unacceptable impact in terms of highway safety.

### Flood Risk

The site is within Flood Zones 1 and 2 and the development is classed as 'more vulnerable' by the Environment Agency. In such cases, the Agency recommends that a Flood Risk Assessment is prepared. The FRA submitted by the applicant indicates that the fluvial 1 in 1000 year flood level has been estimated to be 31.50m AOD and the climate change flood level is also 31.50m AOD. The low risk (1000yr/100yr plus climate change) surface water flood level across the site has been estimated to also be 31.50m AOD. It is therefore proposed that the ground floor level of the converted barn will be set above this level. Residents should make a judgment on leaving or accessing



the site before, during or after the event in relation to any external flood hazard. It is proposed that the occupants prepare a Flood Risk Plan specific to their property. This arrangement is in accordance with the Environment Agency's Standing Advice and as such is acceptable, and a condition is recommended to safeguard future occupants.

### Ecology and Landscaping

Paragraph 131 of the NPPF states that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Policy RLP80 of the Adopted Local Plan states amongst other things that all new development will be expected to provide measures for any necessary mitigation of their impact upon wildlife and for the creation and management of appropriate new habitats. Additional landscaping including planting of native species of trees and other flora may be required to maintain and enhance these features. Policy CS8 of the Core Strategy states that development must have regard to the landscape and its sensitivity to change. Policy LPP71 of the Section 2 Plan states that where development is proposed close to existing features, it should be designed and located to ensure that its future retention and management will not be prejudiced.

The proposal does not involve the removal of any trees or hedges. Subject to the conditions suggested by the Ecology Officer to mitigate the impact of the development on wildlife and protected species, the development is acceptable in terms of impact on the natural environment.

### Habitat Regulations Assessment (HRA / RAMS)

The Ecology Officer identifies that the site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site. New development of this type is likely to have a direct effect on areas of the Essex Coastline which are protected by International, European and National wildlife designations through increased visitor pressure on these sites. It is therefore necessary, in accordance with Natural England's standard guidance on this matter for the Council to secure mitigation measures to prevent the development causing a likely significant adverse effect upon the integrity of these sites if planning permission is granted. The mitigation measure consists of securing of a financial contribution of £127.30 towards offsite visitor management measures at the above protected sites. This financial contribution has been secured by way of an upfront card payment made under S111 of the 1972 Local Government Act.

### Waste

The small extension to the side of the building will provide space for the heat pump and for recycling/waste storage.

## PLANNING BALANCE AND CONCLUSION

As set out within Paragraph 47 of the NPPF, planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the application site is located outside of a designated village envelope/town development boundary and is therefore located within the countryside, where new development is 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. There is therefore a presumption that the application should be refused unless there are material reasons to grant planning permission.

Paragraph 59 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need. In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.27 years against its housing need. As such the Council is presently meeting this objective.

Until the adoption of the Section 2 Plan, the sites which are proposed to be allocated but do not yet have planning permission or a resolution to grant planning permission, have not been included within the 5 Year Housing Land Supply calculation.

As such, although the Council can currently demonstrate a 5 Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the 5 year threshold.

As the Council can demonstrate the required 5 Year Housing Land Supply, the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 213 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).

In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1 and SP3 of the Section 1 Plan, Policies RLP2 and RLP38 of the Adopted Local Plan, and Policy CS5 of the Core Strategy.

Policy SP1 of the Section 1 Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained

within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Section 1 Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. As the Section 1 Plan has been found to be sound and recently adopted by the Council, it is considered that both policies are consistent with the NPPF and can be afforded full weight. Neither are out-of-date.

Whilst the primary purpose of Policy RLP2 of the Adopted Local Plan is to restrict development to development boundaries, and thus resist it in the countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight. The aims of Policy CS5 of the Core Strategy are much wider as the policy seeks to amongst other things, protect and enhance the landscape character and amenity of the countryside. As it is effectively seeking to preserve the intrinsic character and beauty of the countryside – an objective contained within the NPPF – it is considered that this policy is not out-of-date and can be given significant weight.

Policy RLP38 of the Adopted Local Plan allows for the conversion of a rural building in the countryside to residential use, subject to a number of criteria, which includes the requirement for the prior marketing of the building for commercial purposes. Policy LPP42 of the Section 2 Plan takes a more pragmatic view by allowing for the principle of residential conversions of rural buildings that are of a permanent and substantial construction and are capable of conversion without being completely rebuilt, subject to the site being within an acceptable and sustainable location, acceptable impact on protected species/heritage assets, suitable existing access, acceptable impact on residential amenity and on the character of the countryside. Both policies reflect the objectives contained within the NPPF to make effective use of land, and specifically in relation to Paragraph 120d) which promotes the supports the development of under-utilised land and buildings. Policy RLP38 and Policy LPP42 are both considered to be consistent with the NPPF and are therefore not out-of-date. Policy RLP38 can be given full weight, however as the Section 2 Plan has not been adopted, Policy LPP42 can only be given limited weight.

When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.

Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untilted)

planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.

In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. 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).

### **Summary of Adverse Impacts**

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

#### Conflict with the Development Plan

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 15 of the NPPF emphasises that the planning system should be “genuinely plan led”.

The proposed development would conflict with Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy with regard to the Council's spatial strategy as it proposes development outside of the defined development boundaries and within the countryside. However the proposal in this case involves the conversion of an existing building to residential use. Policy RLP38 of the Adopted Local Plan and Policy LPP42 of the Section 2 Plan allows for the residential conversion of rural buildings subject to compliance with the relevant policy criteria. Both policies reflect the objectives

contained within the NPPF to make effective use of land, and specifically in relation to Paragraph 120d) which promotes the supports the development of under-utilised land and buildings.

As highlighted within this report, the barns to the rear of the application site, benefit from planning permission granted by virtue of Class Q Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Development in connection with this prior approval application has commenced, and therefore this permission can be implemented in full. The implementation of this permission would change the nature and immediate context of the site, creating a small and relatively self-contained residential development. As such, and given the change in the context of the site and its surroundings following the implementation of the prior approval application, which the application site, subject to this application, would form an integral part of, it is not considered to be appropriate to require the marketing of the building for commercial purposes as required by Policy RLP38 of the Adopted Local Plan. The proposed conversion of the building to residential use is therefore considered to be acceptable on this basis. As such, the weight to be attributed to the conflict with the Development Plan is therefore considered to be limited.

#### Location and Access to Services and Facilities

The application site is located outside of, but adjacent to, the Colne Engaine Village Envelope with limited access to local services and facilities. The proposed residential dwelling would result in some reliance on the private car conflicting with Policy CS7 of the Core Strategy. This conflict is afforded moderate weight.

#### **Summary of Public Benefits**

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

#### Re-use of an Existing Building

The proposal would involve the conversion of an existing building which would form part of a wider relatively self-contained small residential development. The re-use of the building which sits at the front of the wider site and is viewable from the road, is considered to be sympathetic and appropriate in terms of its design and appearance and would provide an appropriate setting and entrance building into the wider development. This weighs in favour of the proposal in the planning balance and is afforded moderate weight.

#### Delivery of Market Housing

The proposal would involve the re-use of a redundant building and would represent a net gain of one additional dwelling which would contribute to the

Council's housing land supply. However, given the small scale nature of the proposed development, this is afforded limited weight.

### Economic and Social Benefits

The development would facilitate the provision of 1 new residential dwelling which would constitute a short-term economic gain from the works associated with the conversion of the building to a residential use. Future occupants would also have access to local facilities thus bringing economic and social benefits. However, given the scale of the development, these benefits are afforded limited weight.

### Planning Balance

When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal outweigh the adverse impacts. Consequently it is recommended that planning permission is granted for the proposed development.

Notwithstanding the above, even if the 'tilted balance' was engaged, it is considered that the adverse impacts would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be recommended that planning permission be granted for the proposed development.

### 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

|                       |                        |
|-----------------------|------------------------|
| Proposed Roof Plan    | Plan Ref: 20500        |
| Proposed Floor Plan   | Plan Ref: 20100        |
| Proposed Elevations   | Plan Ref: 50000        |
| Proposed Elevations   | Plan Ref: 50100        |
| Location Plan         | Plan Ref: 00010        |
| Proposed Site Plan    | Plan Ref: 00100 rev.0b |
| Parking Strategy      | Plan Ref: 00200 rev.01 |
| Amenity Space Details | Plan Ref: 00300 rev.0b |

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

### Reason

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

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

Reason

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

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

Reason

To ensure the use of appropriate materials having regard to the importance of this scheme in a rural area and to ensure that the choice of materials will harmonise with the character of the surrounding development.

- 4 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwelling-house or provision of any building within the curtilage of the dwelling-house, as permitted by Classes A, AA, B, D and E of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the local planning authority.

Reason

To ensure the development does not prejudice the appearance of the locality and to protect the appearance of the rural area.

- 5 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the submitted Bat Survey - Preliminary Roost Assessment (Arbtech Consulting Ltd, August 2021).

Reason

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

- 6 The development hereby approved shall be carried out in accordance with the recommendations of the Flood Risk Assessment, dated October 2021, carried out by Evans Rivers and Coastal Ltd.

Reason

To safeguard the dwellings and their occupants from flooding.

## INFORMATION TO APPLICANT

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

a) Trenches, pits or holes dug on site should be covered over at night. Alternatively, ramps (consisting of a rough wooden plank) or sloped/stepped trenches could be provided to allow animals to climb out unharmed;

b) materials brought to the site for the construction works should be kept off the ground on pallets to prevent small animals seeking refuge;

c) rubbish and waste should be removed off site immediately or placed in a skip, to prevent small animals using the waste as a refuge.

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

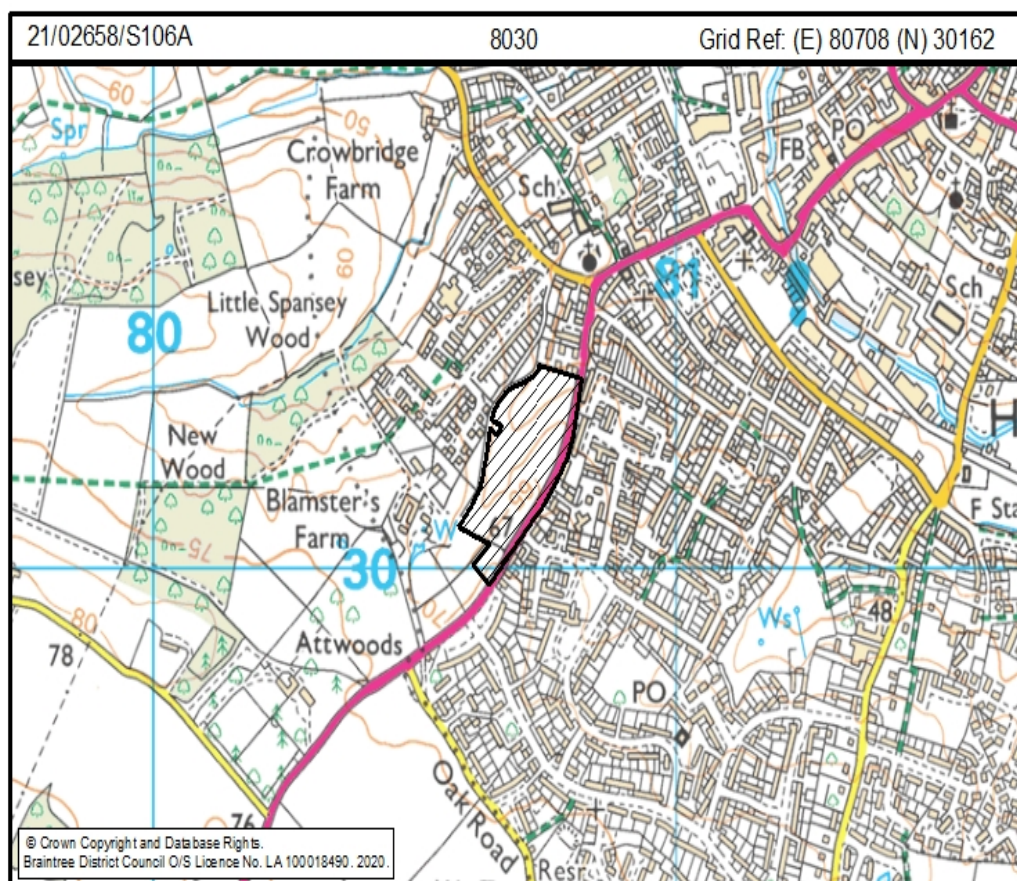


PART A

AGENDA ITEM NUMBER 5d

APPLICATION NO: 21/02658/S106A DATE: 24.08.21  
 VALID:  
 APPLICANT: Stonebond Properties Ltd  
 Stonebond House, 132-136 New London Road ,  
 Chelmsford, Essex  
 DESCRIPTION: Application made under Section 106a of the Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 (as amended) - Application to modify Schedule 2 (Affordable Housing) and Schedule 3 (Open Space and Amenity Areas) of s106 legal agreement relating to 18/00774/OUT.  
 LOCATION: Land West Of, Mount Hill, Halstead, Essex

For more information about this Application please contact:  
 Melanie Corbishley on:- 01376 551414 Ext. 2527  
 or by e-mail to: [melanie.corbishley@braintree.gov.uk](mailto:melanie.corbishley@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QYCLSKBF00A00>

## SITE HISTORY

|                 |  |                                    |          |
|-----------------|--|------------------------------------|----------|
| 18/00076/NONDET | Application for Outline Planning Permission with Some Matters Reserved except Access, Layout and Scale - Erection of 71 dwellings with associated garages, garden curtilages, a Sustainable Urban Drainage system (SUDS), public open space, hard and soft landscaping.            |                                    | 11.07.19 |
| 18/00001/SCR    | Town & Country Planning Act 1990 (as amended), Town & Country Planning (Environmental Impact Assessment) Regulations 2011 - Screening Request - Proposed outline planning application to promote housing development with associated access and associated works at the above site | Screening/ Scoping Opinion Adopted | 18.01.18 |
| 18/00774/OUT    | Application for Outline Planning Permission with Some Matters Reserved except Access, Layout and Scale - Erection of 71 dwellings with associated garages, garden curtilages, a Sustainable Urban Drainage system (SUDS), public open space, hard and soft landscaping.            | Refused then allowed on appeal     | 11.07.19 |
| 20/02101/DAC    | Application for approval of details reserved by condition 13 of approval 18/00774/OUT  | Granted                            | 14.01.21 |
| 20/02238/REM    | Reserved matters (appearance and landscaping) pursuant to outline planning application ref: 18/00774/OUT for the   | Granted                            | 28.05.21 |

|              |   |                       |          |
|--------------|---|-----------------------|----------|
| 21/01489/DAC | erection of 71 dwellings with associated garages, garden curtilages, a Sustainable Urban Drainage System (SUDS), public open space, hard and soft landscaping. Application for approval of details as reserved by conditions 10,11 and 12 approved application 18/00774/OUT   | Pending Consideration |          |
| 21/01492/DAC | Application for approval of details as reserved by conditions 5,14,22,23 and 24 approved application 18/00774/OUT   | Granted               | 24.08.21 |
| 21/01670/DAC | Application for approval of details as reserved by condition 4 of approved application 18/00774/OUT   | Granted               | 15.07.21 |
| 21/01920/DAC | Application for approval of details as reserved by conditions 14,15,16,17,18 and 19 of approved application 18/00774/OUT  | Granted               | 30.07.21 |
| 21/02330/DAC | Application for approval of details as reserved by conditions 6 & 20 of approved application 18/00774/OUT (allowed on appeal  | Granted               | 29.09.21 |
| 21/02769/DAC | APP/Z1510/W/18/3214136) Application for approval of details as reserved by conditions 13 of approved application 18/00774/OUT   | Pending Consideration |          |
| 21/03418/NMA | Non-Material Amendment to permission 20/02238/REM granted 25.05.2021 for: Reserved matters (appearance and landscaping) pursuant to outline planning application ref: 18/00774/OUT for the erection of 71 dwellings with associated garages, garden curtilages, a Sustainable Urban Drainage System (SUDS), public open space, hard and soft landscaping. | Pending Consideration |          |

Amendment would allow:-  
Change from the use of  
timber bollards to post and  
knee rail for the enclosure  
of green and public spaces.

## 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

## 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)

SP6        Infrastructure & Connectivity

## Braintree District Draft Section 2 Local Plan (2017)

LPP33     Affordable Housing

LPP53     Provision of Open Space, Sport and Recreation

LPP82     Infrastructure Delivery and Impact Mitigation

## Supplementary Planning Documents

Affordable Housing SPD

Open Space SPD

## Neighbourhood Plan

None

## 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 deemed to be 'significant' by the Planning Development Manager.

## DESCRIPTION OF THE SITE AND SITE CONTEXT

The application site comprises an agricultural field with an area of 3.9 hectares. The site is located adjacent to the town boundary of Halstead and is enclosed on all sides by mature trees and hedging. There is a significant change in levels across the site, with the land being higher in the southern corner of the site and over 18m lower in the northern corner of the site.

The site has an existing vehicular access onto Mount Hill.

Mount Hill runs along the eastern boundary of the site and to the north are the residential dwellings in Greenbanks. Part of the western boundary abuts residential dwellings in Windmill Road and Acorn Avenue. The remainder of the boundary adjoins countryside which includes the Grade 2 listed Blamsters Farmhouse and an allocated site for specialist housing.

The site is located in close proximity to the Halstead Conservation Area and Grade II\* listed Holy Trinity Church.

Recently the site has been cleared (excluding the trees and hedge that were to be retained) and the applicant has commenced groundworks to implement their respective planning permission and subsequent reserved matters approval (Application References 18/00774/OUT and 20/02238/REM refer).

## PROPOSAL

This application is seeking to vary a number of elements of the agreed Section 106 legal agreement for application reference 18/00774/OUT, namely the affordable dwellings, the affordable housing tenure and the definition of the play area. The details of the specific changes sought, are set out in more detail below.

## SUMMARY OF CONSULTATION RESPONSES

### BDC Housing Research and Development

I confirm we do not have an objection to the request for a variation to the Section 106 Agreement aimed at reflecting the following changes.

The existing Section 106 Agreement requires a policy compliant 22 of the 71 units in this scheme to be provided as affordable homes comprising 14 for Affordable Rent tenure and 8 for shared ownership. As a result of Eastlight Community Homes successfully securing funding from Homes England, Eastlight has been able to purchase the whole site which enables all the units to be provided as affordable homes.

Eastlight's acquisition provides an increase in the number of rented homes from 14 to 16. These will comprise 12 for Affordable Rent which is usually at a figure between 70 and 80% of market rent and 4 homes for Social Rent which will be offered at a figure between 50 and 60% of market rent.

The remaining 55 homes in the development will now be available for shared ownership which provides opportunity for qualifying people to access affordable home ownership.

### BDC Landscape Services

No comments received.

## PARISH / TOWN COUNCIL

### Halstead Town Council

This application came before Council on 15 February 2021. Councillors made very strong objection for the following reasons:

- The SUDs scheme is inadequate to cope with the existing runoff let alone what will be caused after the building
- The flood water running off will damage the existing houses at Greenbanks and Monklands
- The new houses will overlook Greenbanks
- A meeting had been called with the residents but the developer called it off
- The houses are to be built over a sewer, which is illegal

- There is no screening between the houses on several plots
- The materials and appearance of the new buildings are inappropriate when adjacent to the historic building at Blamsters Farm, as mentioned by the Historic Adviser
- A more detailed landscape plan is needed to take into account the historic buildings report
- These plans will destroy all existing trees and hedges whereas attempts should be made to preserve them
- The planned ponds appear to be on the wrong side of the development
- Ecology condition to be applied as per objection letter
- Traffic incidents including fatal on the A131 since approval was given
- Councillors draw attention to these previous objections and in addition to the artefacts recently found, and to the fact that SUDS matters are still not resolved.

## REPRESENTATIONS

Two comments received making the following comments:

- This objection is based on the lack of due diligence by all parties involved in this development. The latest application is a fundamental change to the integrity of the scheme and undermines the provisions outlaid by the inspector who passed the original application.
- Insufficient information provided regarding Suds.
- Site has been sold on once the original owners have realised the costs involved and will be developed 'on the cheap'.
- These companies do not have ISO9001 accreditation and it is the Council's responsibility that the company developing the land is competent.
- This monitoring has clearly failed as we currently have a state of eco vandalism where Stonebond have destroyed fauna and altered areas of land makeup before the SUDS has been approved.
- The whole decision should be revisited by HM Inspectorate or raised above that to the Secretary of State.

Comments on behalf of Greenbanks (Halstead) Management Co Ltd

- The proposed change is not necessary for this development as it was deemed by the Inspector to have a balanced mix of tenure.
- It is not relevant as Halstead does not need more Shared Ownership Homes as these have already been provided on the recent developments in the area. In fact some of the last houses to be sold on the Oak Road development were the Shared Ownership Homes.
- To create a complete estate of Shared Ownership is not reasonable. Shared ownership is basically a leasing operation where most of the Tenants will never completely own homes. Many will simply wait until they have enough equity for a deposit on another house and then move on. Meaning there will be a continual turnover of shared owners which is no good what so ever for the community life of Halstead. Being among the

less well off their Social needs will be higher putting even greater strain on Halstead's overburdened services i.e. Schools, Doctors and general services.

- This change will not be acceptable in the terms of planning as it will radically change the Tenure Plan.
- The agreement will be extremely unfair in the terms of planning as this will be a very lopsided in Scale and Development of Tenure. It will place undue pressure on Halstead Town Council Services.
- Finally, this change of ownership was completed before the SUDS design has been approved. At the end of June the Essex SUDS team required a detailed survey of the west side of the site which has never been properly surveyed in order to proceed with the SUDS designs. This proves that due diligence has never been properly carried out by the new owners.
- Eastlight is a merger between three Charities the last being very recently. We would strongly suggest that this organisation does not at the moment have the capacity to oversee such a large and difficult development. Equally, this is one of Stonebond's largest developments for which they have little previous experience.

## REPORT

### Background

Outline planning permission was granted at appeal in July 2019 under Application Reference 18/00774/OUT for the following:

*Application for Outline Planning Permission with Some Matters Reserved except Access, Layout and Scale - Erection of 71 dwellings with associated garages, garden curtilages, a Sustainable Urban Drainage system (SUDS), public open space, hard and soft landscaping.*

The outline permission was the subject of a legal agreement which covered the following matters:

- Healthcare Contribution
- 30% Affordable Housing on-site
- The on-site provision of open space and amenity areas, including a equipped area of play, together with arrangements for the on-going management of these areas
- A financial contribution for the provision or improvement of outdoor sport
- A financial contribution for the provision or improvements of allotments

The subsequent reserved matters were granted consent in May 2021. (Application Reference 20/02238/REM).

This application confirms that the site is now owned by Eastlight Community Housing (the housing association formed following the merger of Greenfields Community Housing and Colne Housing). Stonebond Properties, who gained approval of the Reserved Matters in May 2021, are now acting as delivery partner and contractor to deliver the units on site.



## Proposed alterations to the Section 106 Agreement

### **Number of Affordable Homes**

Affordable Dwellings is currently defined in the Section 106 Agreement as:

*‘30% of the Dwellings to be constructed in Site as part of the Development provided in accordance with the Affordable Housing Scheme (rounded down to the nearest whole number) and in accordance with the standards acceptable to Homes England at the date of the Commencement of Development with any ground floor flats and all houses complying with Building Regulations 2015 Part M4 Category’*

It is proposed that the definition of Affordable Dwellings at Schedule 2 of the Original Agreement shall be deleted and replaced with the following:

*‘A minimum of 30% of the Dwellings to be constructed on the Site as part of the Development to be provided in accordance with the Affordable Housing Scheme (rounded down to the nearest whole number) and in accordance with the standards acceptable to Homes England at the date of the Commencement of Development with any ground floor flats and all houses complying with Building Regulations 2015 Part M4 Category.*

The existing Section 106 Agreement requirement for 30% of the dwellings to be affordable dwellings equates to 21 of the 71 units being provided as affordable homes. Under the current agreement this would comprise 14no. units for Affordable Rent and the tenure of the other 7no. units providing an affordable route to home ownership.

As a result of Eastlight Community Housing successfully securing funding from Homes England, Eastlight has been able to purchase the whole site which will enable them to provide all the units on the site as affordable homes. The provision of all 71 units as affordable homes is understood to be a condition of the funding secured from Homes England. The Council’s Strategic Housing team were consulted by Homes England prior to their agreeing to provide this funding to Eastlight. The Council’s Strategic Housing team were supportive of Eastlight’s proposal to deliver 100% affordable housing on this site, subject to an appropriate mix of Affordable Housing tenures.

The proposed change would allow a greater number of units at the site to be provided as affordable homes. Policy CS2 of the Core Strategy requires, on this site, that the target of 30% affordable housing is secured. The policy does not however set a maximum number or percentage of Affordable Homes that can be provided within a new housing development. The Council’s Affordable Housing Supplementary Planning Document (SPD), published in 2006, also does not clearly set out a maximum number of Affordable Homes that can be provided within a development. The SPD states that the Council *‘may place a maximum limit on the number of affordable units that can be grouped together*

*on any part of the site’ but then later in the document states ‘to address this scale of need the maximum number of new units should be negotiated as affordable housing on all suitable sites’.*

In the absence of a specific Development Plan Policy which caps the maximum number / percentage of Affordable Homes on the site, the supportive statement within the Affordable Housing SPD about securing the maximum level of affordable housing within new developments, and the support of the Council's Strategic Housing team Officers, it is considered the proposed change to the Section 106 Agreement which introduces a floor to the provision of Affordable Housing is acceptable.

### **Tenure of Affordable Homes**

As members will be aware when the Council secures Affordable Housing within new housing development this usually includes a mix of Affordable Housing tenures which will include both Affordable Rent and schemes that are intended to provide an Affordable Route to Home Ownership, such as Shared Ownership.

The existing Section 106 Agreement defines Affordable Housing Tenure as follows:

*‘Means 20% of the dwellings as Affordable Housing For Rent and 10% of the dwelling as Other Tenures unless otherwise agreed in writing with the Council with the actual number to be provided in each category of tenure being rounded up or down to the nearest whole number Provided Always that the total number of Affordable Dwellings shall not exceed 30% of the Dwellings and the number of Dwelling to be provided as Other tenures shall never be less than 10% of the Dwellings’.*

The definition of ‘Other Tenures’ includes a number of different schemes intended to provide affordable routes to home ownership. These could include Discounted Market Sales and/or Starter Homes and/or Other Affordable Routes to Home Ownership, such as Shared Ownership.

The applicant proposes that the definition of Affordable Housing Tenure at Schedule 2 of the Original Agreement shall be deleted and replaced with the following:

*‘Means a minimum of 20% of the Dwellings as Affordable Housing for Rent and a minimum of 10% of the Dwellings as Other Tenures unless otherwise agreed in writing with the Council with the actual number to be provided in each category of tenure being rounded up or down to the nearest whole number’.*

As well as removing the current cap of 30% on the number of Affordable Homes that can be provided at the site, this change would also allow for a greater number of dwellings to be provided for affordable housing rent and ‘Other Tenures’, such as shared ownership.

As well as seeking these variations to the Section 106 Agreement, the applicant is also seeking approval for their Affordable Housing scheme which includes details of the tenure of the Affordable Housing that will be provided. Schedule 2 of the Section 106 Agreement required the submission of an Affordable Housing Scheme (AHS) with the first application for Reserved Matters approval. In light of the proposed changes a revised tenure plan has been submitted as part of this application. It is proposed that the number of rented homes is increased from 14 to 16, representing 22.5% of the total number of homes on the development.

These rented homes will comprise 12no. for Affordable Rent and 4no. homes for Social Rent. Affordable homes which are provided for rent are usually provided on the Affordable Rent tenure which means that the rent charged to tenants is usually 70-80% of what the market rent would be for the property. Homes provided under the Social Rent tenure will be available to rent at a figure which would be between 50-60% of market rent. The provision of units that will be provided with Social Rents through a Section 106 Agreement is very unusual in this District and the Strategic Housing Officers view is that the provision of these units under the Social Rent tenure will be a small but valuable addition to the Districts affordable housing stock.

In addition it is now proposed that the remaining 55 homes in the development will be provided under as Shared Ownership tenure instead of seven as was originally secured within the Section 106 Agreement.

The Shared Ownership tenure provides the opportunity for qualifying people to access home ownership on a more affordable basis. The fact that the occupiers of these 55 homes will be at least part owners of their properties was central to the Council's Strategic Housing team being supportive when Homes England sought the Council's view on the proposals when they were considering the request for funding by Eastlight. The Strategic Housing teams experience is that residents who own part of their property on a Shared Ownership feel the responsibility of being a home owner and act accordingly taking a greater pride and responsibility in their property than tenants in rented housing might do. The Council's Strategic Housing have made it clear that they would not have been supportive of a 100% Affordable Housing if a greater proportion of the homes were provided on a rental basis.

The proposed changes are all supported by BDC's Strategic Housing team as the development, as amended, would deliver a number of benefits. The scheme would deliver the usual number of Affordable Rent units it would also provide two homes that would be provided at lower Social Rent levels. In addition the Shared Ownership tenure provides the opportunity for qualifying people to access home ownership on a more affordable basis.

Officers note that one of the approved plans listed on the Reserved Matters approval is a tenure plan. The approved tenure plan shows the location of 22 Affordable Homes. In the event that members approve this variation to the Section 106 Agreement, the applicant will need to make an application to vary

Condition No.2 of the Reserved Matters approval in order that the Council can approve the updated tenure plan and allow them to build the development out in accordance with the list of approved plans.

### Play Area

To aid Members in their assessment of the this application, Officers have provided below the definitions for a local area of play, locally equipped area for play and neighbourhood equipped area of play. This guidance is drawn from recognised national guidance published by Fields in Trust.

#### **LAP (Local Area for Play):**

*A small area of open space specifically designated and primarily laid out for very young children to play close to where they live i.e. within one minute's walking time. LAPs are designed to allow for ease of informal observation and supervision and primarily function to encourage informal play and social interaction for toddlers. The LAP requires no play equipment as such, relying more on demonstrative features indicating that play is positively encouraged.*

#### **LEAP (Locally Equipped Area for Play):**

*An area of open space specifically designed and laid out with features including equipment for children who are beginning to play independently. The number and nature of equipment and structures is a matter for local decision, though provision for a minimum number of six play experiences is recommended.*

*Play features including equipment are an integral part of the LEAP and the attractiveness of such spaces, though it is also important that the space can be used for physical activity and games. LEAPs can also include landscaped areas of play; containing little formal equipment but imaginatively designed and contoured, using as far as is possible natural materials such as logs or boulders which create an attractive setting for play.*

#### **NEAP (Neighbourhood Equipped Area of Play):**

*This is an area of open space specifically designated, laid out and equipped mainly for older children but potentially with play opportunities for younger children as well. It can provide play equipment and a hard surface area for ball games or wheeled activities such as roller skating or cycling. It may provide other facilities such as a ramp for skateboarding, a rebound wall, and a shelter for meeting and socialising. NEAPs can often be combined with LEAP provision.*

Schedule 3 of the current Section 106 Agreement defines Play Area as:

*'Means a local equipped area of play together with appropriate fencing seating litter bins signage and landscaping for use by the general public to be provided on the Site in accordance with the Planning Permission...*

The Section 106 Agreement also specifies that the play equipment that will be provided on site will be to a minimum value that is calculated in accordance with figures contained within the Council's Open Space Supplementary Planning Document. In this case the minimum value of the play equipment would be £44,561.28. The applicant considers that this would not be sufficient to fund a LEAP as defined above by the Fields in Trust guidance and therefore it is suggested that the wording of the legal agreement should be altered and include a revised definition so that the play area would be instead be a Local Area of Play (LAP). The play area will contain a heavy duty round picnic table, a wooden bench, a litter bin, a toddler carousal, climbing frame/slide, a see saw, a springer and a two seat swing with cradle seats.

Accordingly, the definition of Play Area at Schedule 3 of the Original Agreement shall be deleted and replaced with the following:

*'Means a local area for play together with appropriate fencing, seating, litter bins, signage, and landscaping, for use by the general public to be provided on the Site in accordance with the Planning Permission'.*

To conclude, the applicant does not consider that a LEAP can be provided as recommended by Fields in Trust, as it would not be possible to provide the level of play equipment required with the money as identified above. The proposed amendment would deliver a Local Area of Play which will be equipped with 5no. pieces of children's play equipment, seating and a litter bin.

Officers raise no objection to the proposed alteration to the definition and consider the Local Area of Play to be delivered will be of benefit to local residents.

#### Other Matters

Comments from both the Town Council and nearby residents refer to the surface water drainage for the site. This is not a matter for consideration within this application and is currently being considered under a discharge of condition application.

Comments made with regards the original appeal decision are noted, however as this decision was not challenged at the time, this cannot now be reviewed either by the Planning Inspectorate or the Secretary of State.

#### CONCLUSION

The proposed alterations to the Section 106 Agreement are considered to be acceptable. Accordingly, the application is therefore recommended for approval.

## RECOMMENDATION

It is RECOMMENDED that the following decision be made:

Application GRANTED and the Section 106 Agreement amended as follows:

- Definition of Affordable Homes altered to read: *'a minimum of 30% of the Dwellings to be constructed on the Site as part of the Development to be provided in accordance with the Affordable Housing Scheme (rounded down to the nearest whole number) and in accordance with the standards acceptable to Homes England at the date of the Commencement of Development with any ground floor flats and all houses complying with Building Regulations 2015 Part M4 Category.'*
- Definition of Affordable Housing Tenure altered to read: *'means a minimum of 20% of the Dwellings as Affordable Housing for Rent and a minimum of 10% of the Dwellings as Other Tenures unless otherwise agreed in writing with the Council with the actual number to be provided in each category of tenure being rounded up or down to the nearest whole number'.*
- Alter the definition of Play Area to read: *'means a local area for play together with appropriate fencing, seating, litter bins, signage, and landscaping, for use by the general public to be provided on the Site in accordance with the Planning Permission'.*

CHRISTOPHER PAGGI  
PLANNING DEVELOPMNT MANAGER

|  |                                     |
|--|-------------------------------------|
| <b>Report Title:</b> Objection to Tree Preservation Order No. 08/2021 at The Beeches, Braintree Road, Great Bardfield  |                                     |
| <b>Report to:</b> Planning Committee   |                                     |
| <b>Date:</b> 30th November 2021  | <b>For:</b> Decision                |
| <b>Key Decision:</b> No  | <b>Decision Planner Ref No:</b> N/A |
| <b>Report Presented by:</b> David Watson, Tree and Landscape Officer   |                                     |
| <b>Enquiries to:</b><br>Cara Hitt, Tree and Landscape Officer<br><a href="mailto:cara.hitt@braintree.gov.uk">cara.hitt@braintree.gov.uk</a><br>01376 551414 EXT 2417 |                                     |

## 1. Purpose of the Report

- 1.1 This report considers the objections raised by Mr. Lennard and Mrs. Forbes to the making of Tree Preservation Order 08/2021.
- 1.2 On the 9th of June 2021, a provisional Tree Preservation Order was placed on a semi-mature eucalyptus tree growing at the frontage of The Beeches, Braintree Road, Great Bardfield following receipt of a Conservation Area Notification of intent to fell.

## 2. Recommendations

- 2.1 That Tree Preservation Order No. 08/2021 at The Beeches, Braintree Road, Great Bardfield is confirmed to ensure that the visual amenity is retained by securing protection for this prominent tree.

## 3. Summary of Issues

### Background

- 3.1 A Section 211 Notice informing the Council of the intent to carry out tree works in a Conservation Area was submitted by Mr. Lennard on the 28th of April 2021, and validated the same day. This notification informed the Council of the intention to fell a eucalyptus tree because of its proximity to overhead telephone lines, houses, and driveways. Cara Hitt, a Tree Officer from Landscape Services, visited the site to view the tree from the publicly accessible land surrounding the property. It was felt that the tree had strong amenity value and should be retained. A copy of the assessment (TEMPO form) is shown in Appendix 2.

- 3.2 A provisional Tree Preservation Order (TPO) was made on the 9th of June 2021 to protect the tree. A copy of the provisional Order was also sent to The Beeches, Braintree Road and immediate neighbours. Letters of objection (Appendix 3) were received on the 2nd of July 2021 from Mrs. Forbes of Keepers, Braintree Road, and on the 6th of July 2021 from Mr. Lennard of The Beeches, Braintree Road.
- 3.3 On the 17th November 2021 Cara Hitt visited the site to meet with Mr. and Mrs. Lennard and Mr. and Mrs. Forbes to discuss the objections. However the matter could not be resolved at the meeting so the objections have been set out in this report to the Planning Committee for determination. Subsequent to this meeting Mr. Forbes sent a further email that he would like included in this report (this can be seen in Appendix 7) as well as additional photographs taken by Cara Hitt at the meeting. Any further points outside the contents of this report will be reported verbally to the meeting.

#### Assessment

- 3.4 The tree is a semi-mature eucalyptus that appears to be in good health and is a prominent feature in the street scene. The tree is situated in the front garden of The Beeches, Braintree Road, Great Bardfield and is visible from Braintree Road, including from the grounds of The Church of St Mary-the-Virgin and neighbouring properties. The tree is situated west of the house near the boundary with the neighbouring property Keepers (photos are shown in Appendix 6).
- 3.5 The applicant stated that they want to fell the tree due to its proximity to overhead telephone lines, houses, and driveways in the Section 211 Notification of Intent to do Tree Works in a Conservation Area. Mrs. Forbes also mentions in her written objection that the tree has grown through their telephone line and there is overhang to the pavement and her driveway. Firstly, although the tree is near the telephone lines, the line is situated at the edge of the tree canopy and has limited interference. Any interference here can be mitigated by some tree maintenance, specifically reducing the limbs of the tree that are close to the telephone line instead of felling the entire tree. Secondly, the tree was not touching any of the properties at the time the site visit was undertaken by Cara Hitt; it is also considered that any low overhanging branches can be resolved by some judicious crown lifting of the lower branches. The designation of a TPO does not exclude maintenance works with prior consent. With suitable consent, a crown lift of the tree along with a reduction of the limb closest to the telephone lines would alleviate concerns due to interference with telephone lines and access due to overhang.
- 3.6 In his written objection, Mr. Lennard notes that the tree has moved his front wall and damaged his neighbour's fence. Mrs. Forbes also mentions damage to her fence in her written objection. Although the wooden fence is currently at a slight angle (approximately 85° instead of 90°) this can be easily rectified with some slight adjustment. The wooden post can be repositioned or



reinforced to correct the angle. With regards to the front garden wall, this is potentially at an angle, but again very slight, and could be re-laid to correct this if it becomes an issue.

- 3.7 Mrs. Forbes has also stated that the tree overshadows her home and reduces the light levels to the front of the property; eucalyptus trees are usually evergreen trees in this country but they not have a dense canopy allowing a more dappled light. The eucalyptus is situated south west of *Keepers*. The attached photos in this report (including those submitted by Mrs. Forbes) help to illustrate that the shadow cast from the tree does not affect the light reaching *Keepers* all day. The large windows at the front of the property face west so they would receive limited direct light regardless of the vegetation.
- 3.8 Mrs. Forbes also comments on the amount of leaf drop causing mess. The tree is evergreen so the amount of leaf drop is minimal. It will drop some loose bark and spent flowers but this debris and type of leaf litter are part of the natural life cycle.
- 3.9 It is considered that the objections received to the TPO can be addressed by some tree maintenance (i.e. crown lifting and judicial pruning) rather than completely felling the tree. Any damage to other garden structures can also be addressed by some maintenance. The photos shown in Appendix 6 show that the eucalyptus is a prominent tree along this stretch of Braintree Road; it is also visible from neighbouring properties including the grounds of The Church of St Mary-the-Virgin. It also screens the modern properties behind The Beeches, keeping the period character of Braintree Road. Confirmation of the TPO will maintain the amenity within this part of the local Conservation Area.

### Conclusion

- 3.10 Given the prominence and amenity provided by the eucalyptus tree within this part of the local Conservation Area it is recommended that Tree Preservation Order No.08/2021 The Beeches, Braintree Road, Great Bardfield is confirmed.

## **4. Options**

- 4.1 The two options are as follows:

1) To confirm the provisional Tree Preservation Order in the interests of amenity.

2) Not to confirm the provisional Tree Preservation Order and allow the owner to prune/fell the trees as they see fit.

## **5. Financial Implications**

- 5.1 The cost of making the TPO have been met from existing budgets.

## **6. Legal Implications**

- 6.1 The Council is required to follow the legislative framework in place for making a Tree Preservation Order. The proposals set out within this report are in line with that legislative framework.

## **7. Other Implications**

### Environment and Climate Change

- 7.1 If the Order is not confirmed there is a risk that the visual amenity of the Conservation Area would be diminished and the tree's contribution to carbon sequestration will be lost.

### Risks

- 7.2 Compensation rights could arise if the Council subsequently refuses an application for tree work and the tree or a part of it then fails, or causes damage.

## **8. List of Appendices**

- 8.1 Appendix 1: Tree Preservation Order 08/2021
- 8.2 Appendix 2: Copy of TEMPO Assessment
- 8.3 Appendix 3: Letter of objections from Mrs. Forbes dated 2nd July 2021 and Mr. Lennard dated 6th of July 2021
- 8.4 Appendix 4: Copy of Section 211 Notification of Intent to do Tree Works in a Conservation Area
- 8.5 Appendix 5: Map of The Beeches and the immediate area
- 8.6 Appendix 6: Photographs
- 8.7 Appendix 7: Letter from Mr. Forbes dated 17<sup>th</sup> November 2021 and Photographs from Meeting on Site

## **9. Background Papers**

- 9.1 Part VIII of the Town and Country Planning Act 1990 (as amended)
- 9.2 The Town and Country Planning (Tree Preservation) (England) Regulations 2012
- 9.3 Section 192 of the Planning Act 2008
- 9.4 Part 6 of the Localism Act 2011

## Appendix 1: Tree Preservation Order 08/2021

### THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND) REGULATIONS 2012

#### Town and Country Planning Act 1990 TPO 08/2021/TPO

The Braintree District Council, in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 make the following Order:- The Beeches, Braintree Road, Great Bardfield, CM7 4BN

#### Citation

1. This Order may be cited as TPO 08/2021/TPO

#### Interpretation

2. (1) In this Order "the authority" means the Braintree District Council.  
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012

#### Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.  
(2) Without prejudice to subsections (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders; Forestry Commissioners), and subject to the exceptions in regulation 14, no person shall—

- (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or  
(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

#### Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provisions for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 9<sup>th</sup> day of June 2021

The Common Seal of BRAINTREE DISTRICT COUNCIL was herewith affixed in the presence of: \_\_\_\_\_

\_\_\_\_\_  
Authorized Signatory



## SCHEDULE

### SPECIFICATION OF TREES

**Trees specified individually**  
(encircled in black on the map)

| REF. ON MAP | DESCRIPTION | SITUATION   |
|-------------|-------------|---|
| T1          | Other       | In the front garden of The Beeches, Braintree Road, Great Bardfield |

**Trees specified by reference to an area**  
(within a dotted black line on the map)

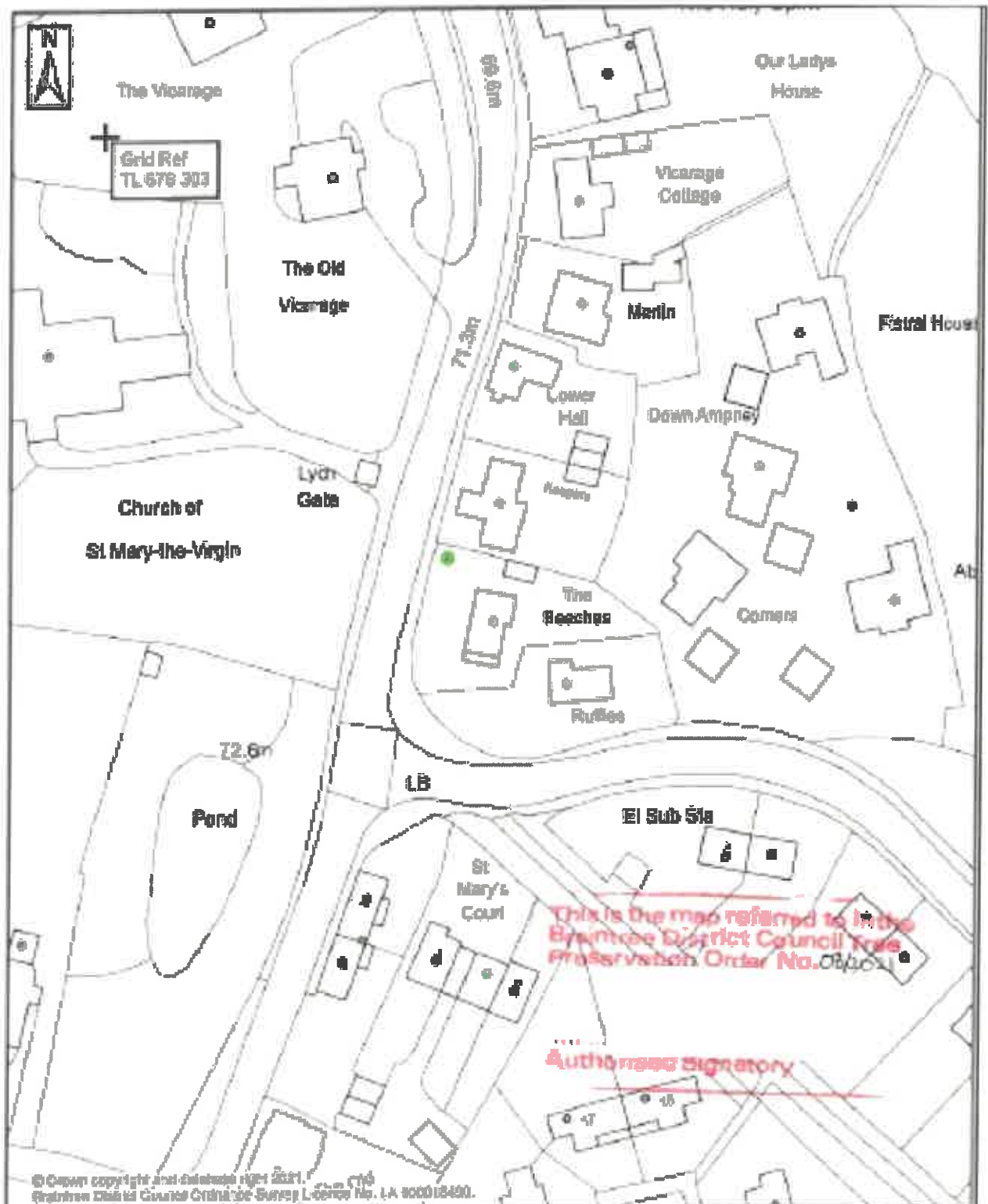
| REF. ON MAP | DESCRIPTION | SITUATION |
|-------------|-------------|-----------|
|             | NONE        |           |

**Groups of trees**  
(within a broken black line on the map)

| REF. ON MAP | DESCRIPTION | SITUATION |
|-------------|-------------|-----------|
|             | NONE        |           |

**Woodlands**  
(within a continuous black line on the map)

| REF. ON MAP | DESCRIPTION | SITUATION |
|-------------|-------------|-----------|
|             | NONE        |           |



## Planning Department

Date: JUN 2021

Ref: 116-4-535

Drawn: SS

Scale: 1:300  
TL 87M

TREE PRESERVATION ORDER 08/2021

THE BEECHES, BRAINTREE ROAD, GT BARDFIELD CM7 4RN

**Braintree**  
District Council

## Appendix 2: Copy of TEMPO Assessment

### TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO SURVEY DATA SHEET & DECISION GUIDE

|   |  |                     |
|---|--|---------------------|
| Date: <b>02/06/2021</b> Surveyor: Cara Hitt |  |                     |
| <b>Tree details</b>                         |  |                     |
| TPO Ref (if applicable):                    | Tree/Group No: 1                                       | Species: Eucalyptus |
| Owner (if known)                            | Location: The Beeches. Braintree Road. Great Bardfield |                     |

#### REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

##### Part 1: Amenity assessment

a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

- |                          |                         |
|--------------------------|-------------------------|
| 5) Good                  | Highly suitable         |
| 3) Fair                  | Suitable                |
| 1) Poor                  | Unlikely to be suitable |
| 0) Dead/dying/dangerous* | Unsuitable              |
- \* Relates to existing context and is intended to apply to severe irremediable defects only

##### Score & Notes

3 Not the best form but the tree has high amenity value due to its location opposite the church. It adds considerable character to the area and acts as a screen for the modern properties behind The Beeches.

b) Retention span (in years) & suitability for TPO

- |           |                 |
|-----------|-----------------|
| 5) 100+   | Highly suitable |
| 4) 40-100 | Very suitable   |
| 2) 20-40  | Suitable        |
| 1) 10-20  | Just suitable   |
| 0) <10*   | Unsuitable      |

\*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

##### Score & Notes

4

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- |   |                     |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees  | Highly suitable     |
| 4) Large trees, or medium trees clearly visible to the public       | Suitable            |
| 3) Medium trees, or large trees with limited view only              | Suitable            |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable     |
| 1) Trees not visible to the public, regardless of size              | Probably unsuitable |

##### Score & Notes

4 Can be seen from the road, the church grounds opposite and the neighbouring properties.

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- |  |                               |
|--|-------------------------------|
| 5) Principal components of arboricultural features, or veteran trees                           | <b>Score &amp; Notes</b><br>0 |
| 4) Tree groups, or members of groups important for their cohesion                              |                               |
| 3) Trees with identifiable historic, commemorative or habitat importance                       |                               |
| 2) Trees of particularly good form, especially if rare or unusual                              |                               |
| 1) Trees with none of the above additional redeeming features (inc. those of indifferent form) |                               |

##### Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- |                               |                               |
|-------------------------------|-------------------------------|
| 5) Immediate threat to tree   | <b>Score &amp; Notes</b><br>5 |
| 3) Foreseeable threat to tree |                               |
| 2) Perceived threat to tree   |                               |
| 1) Precautionary only         |                               |

##### Part 3: Decision guide

- |       |                       |
|-------|-----------------------|
| Any 0 | Do not apply TPO      |
| 1-6   | TPO indefensible      |
| 7-11  | Does not merit TPO    |
| 12-15 | TPO defensible        |
| 16+   | Definitely merits TPO |

**Add Scores for  
Total:**  
16

**Decision:**  
  
**Definitely  
merits TPO**

### **Appendix 3: Letter of objections from Mrs. Forbes dated 2nd July 2021 and Mr. Lennard dated 6th of July 2021**

#### **Objection received from Mrs. Forbes on 02.07.2021:**

‘Reference: 08/2021/TPO

I am writing to object to the preservation order made on the tree associated with the tree referenced above. There are so many issues with this tree in my view, that I have bullet point them for you below so that it is easier on the eye:

- The tree overshadows our home, causing a much shorter time of light to the front of our property – not just downstairs, but upstairs as well. Light is very important to us as a family, and I think to most people.
- The tree overhangs a very narrow pavement (plus a proportion of the road), which is a school run pedestrian route. The parents are contently having to bow down to get under the tree which takes their focus off of watching their children walking next to a very fast road, on a very narrow pavement. It is an accident waiting to happen in my view. (Please see enclosed photo). 1 and 2.
- The tree has grown through our telephone cable and during windy days it affects our line. This is also very dangerous because if it broke it could severely damage a pedestrian. Please see enclosed photo. 3, 4 and 5.
- The leaves that this very large tree drops are huge amounts over a long period of time (from May to September) and cause a number of issues:
  - Slipping on rainy days. We have had countless people slipping on the pavement and our drive over the years. We live in a close knit village so people are very kind and don't complain but do mention it.
  - Our driveway and front area is covered in leaves, and they damaged the ground brick work. We have had to spend a lot of money having it re-laid two years ago.
  - The number of leaves is so great that it makes the whole of the front look a mess. We have tried sweeping it, but it just isn't worth it and we do not have the time to do it every day.
  - We have a gravel section at the front of our house, but it constantly looks as mess as it is littered with leaves. It is impossible to tidy up.
  - Please see enclosed photos. 6 and 7.
- When our neighbours planted the tree 16 years ago (I think) it was only supposed to be a miniature tree as they would never have planted it there. Over the years the tree has grown on a slant. What this means is that the trunk/roots are now pushing over to our side of the drive. It has already broken through the fence, and has pushed the fence slightly over. If this continues we have been advised that this will end up pushing up our drive and definitely pushing over our fence very soon. (Please see enclosed photo). 8, 9 and 5.
- My husband's van is a transit and I struggle to get in and out of the passenger side because the tree is greatly overhanging into our drive. I have to push the branches back to shut the door. See photo 5.

Given the potential damage that this tree will have on its surroundings, and already has had, plus more importantly the potential risk to pedestrians that this tree threatens, it would be wise for the Landscape Services to lift the preservation, plus have the tree removed. I look forward to hearing your response.’



Photographs received from Mrs. Forbes on 02.07.2021:















**Objection received from Mr. Lennard on 06.07.2021:**

'I am writing to you to formally object to the placing of a TPO on the Eucalyptus tree on my property at Beeches Braintree Road Great Bardfield. I believe the tree has become a liability as it has already moved our front wall and caused damage to our neighbors fence. Our neighbors have informed us that the tree is interfering with their telephone line and also depositing a large amount of leaves onto the pavement and their driveway which become a hazard when wet. We feel the safest option is to allow us to remove the tree before it causes more damage. I await your reply.'



## Appendix 4: Copy of Section 211 Notification of Intent to do Tree Works in a Conservation Area

**Braintree**  
District Council

Development Management Tel: 01376 552525  
Causeway House Fax: 01376 557767  
Bocking End  
Braintree  
Essex CM7 9TB  
www.braintree.gov.uk

27 APR 2021

### Application for tree works: works to trees subject to a tree preservation order (TPO) and/or notification of proposed works to trees in a conservation area.

#### Town and Country Planning Act 1990

You can complete and submit this form electronically via the Planning Portal by visiting [www.planningportal.gov.uk/apply](http://www.planningportal.gov.uk/apply)

#### Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the authority's website. If you require any further clarification, please contact the Authority's planning department.

Please complete using block capitals and black ink.

You must use this form if you are applying for work to trees protected by a tree preservation order (TPO). (You may also use it to give notice of works to trees in a conservation area).

It is important that you read the accompanying guidance notes before filling in the form. Without the correct information, your application / notice cannot proceed.

#### 1. Applicant Name and Address

|                     |                                      |               |                                     |
|---------------------|--------------------------------------|---------------|-------------------------------------|
| Title:              | <input type="text" value="MR"/>      | First name:   | <input type="text" value="MARTYN"/> |
| Last name:          | <input type="text" value="LENNARD"/> |               |                                     |
| Company (optional): | <input type="text"/>                 |               |                                     |
| Unit:               | <input type="text"/>                 | House number: | <input type="text"/>                |
|                     |                                      | House suffix: | <input type="text"/>                |
| House name:         | <input type="text"/>                 |               |                                     |
| Address 1:          | <input type="text"/>                 |               |                                     |
| Address 2:          | <input type="text"/>                 |               |                                     |
| Address 3:          | <input type="text"/>                 |               |                                     |
| Town:               | <input type="text"/>                 |               |                                     |
| County:             | <input type="text"/>                 |               |                                     |
| Country:            | <input type="text"/>                 |               |                                     |
| Postcode:           | <input type="text"/>                 |               |                                     |

#### 2. Agent Name and Address

|                     |                                   |               |                                    |
|---------------------|-----------------------------------|---------------|------------------------------------|
| Title:              | <input type="text" value="MR"/>   | First name:   | <input type="text" value="KEVIN"/> |
| Last name:          | <input type="text" value="WADE"/> |               |                                    |
| Company (optional): | <input type="text" value="T"/>    |               |                                    |
| Unit:               | <input type="text"/>              | House number: | <input type="text"/>               |
|                     |                                   | House suffix: | <input type="text"/>               |
| House name:         | <input type="text"/>              |               |                                    |
| Address 1:          | <input type="text"/>              |               |                                    |
| Address 2:          | <input type="text"/>              |               |                                    |
| Address 3:          | <input type="text"/>              |               |                                    |
| Town:               | <input type="text"/>              |               |                                    |
| County:             | <input type="text"/>              |               |                                    |
| Country:            | <input type="text"/>              |               |                                    |
| Postcode:           | <input type="text"/>              |               |                                    |

### 3. Trees Location

If all trees stand at the address shown in Question 1, go to Question 4. Otherwise, please provide the full address/location of the site where the tree(s) stand (including full postcode where available)

|                      |                      |               |                      |               |                      |
|----------------------|----------------------|---------------|----------------------|---------------|----------------------|
| Unit:                | <input type="text"/> | House number: | <input type="text"/> | House suffix: | <input type="text"/> |
| House name:          | <input type="text"/> |               |                      |               |                      |
| Address 1:           | <input type="text"/> |               |                      |               |                      |
| Address 2:           | <input type="text"/> |               |                      |               |                      |
| Address 3:           | <input type="text"/> |               |                      |               |                      |
| Town:                | <input type="text"/> |               |                      |               |                      |
| County:              | <input type="text"/> |               |                      |               |                      |
| Postcode (if known): | <input type="text"/> |               |                      |               |                      |

If the location is unclear or there is not a full postal address, either describe as clearly as possible where it is (for example, 'Land to the rear of 12 to 18 High Street' or 'Woodland adjoining Elm Road') or provide an Ordnance Survey grid reference:

Description:

### 4. Trees Ownership

Is the applicant the owner of the tree(s)? ☒ Yes ☐ No  
If 'No' please provide the address of the owner (if known and if different from the trees location)

|                           |                           |                      |                      |
|---------------------------|---------------------------|----------------------|----------------------|
| Title:                    | <input type="text"/>      | First name:          | <input type="text"/> |
| Last name:                | <input type="text"/>      |                      |                      |
| Company (optional):       | <input type="text"/>      |                      |                      |
| Unit:                     | <input type="text"/>      | House number:        | <input type="text"/> |
| House name:               | <input type="text"/>      |                      |                      |
| Address 1:                | <input type="text"/>      |                      |                      |
| Address 2:                | <input type="text"/>      |                      |                      |
| Address 3:                | <input type="text"/>      |                      |                      |
| Town:                     | <input type="text"/>      |                      |                      |
| County:                   | <input type="text"/>      |                      |                      |
| Country:                  | <input type="text"/>      |                      |                      |
| Postcode:                 | <input type="text"/>      |                      |                      |
| Telephone numbers         |                           |                      |                      |
| Country code:             | National number:          | Extension number:    |                      |
| <input type="text"/>      | <input type="text"/>      | <input type="text"/> |                      |
| Country code:             | Mobile number (optional): |                      |                      |
| <input type="text"/>      | <input type="text"/>      |                      |                      |
| Country code:             | Fax number (optional):    |                      |                      |
| <input type="text"/>      | <input type="text"/>      |                      |                      |
| Email address (optional): |                           |                      |                      |
| <input type="text"/>      |                           |                      |                      |

### 5. What Are You Applying For?

Are you seeking consent for works to tree(s) subject to a TPO? ☐ Yes ☐ No

Are you wishing to carry out works to tree(s) in a conservation area? ☒ Yes ☐ No

### 6. Tree Preservation Order Details

If you know which TPO protects the tree(s), enter its title or number below.

### 7. Identification Of Tree(s) And Description Of Works

Please identify the tree(s) and provide a full and clear specification of the works you want to carry out. Continue on a separate sheet if necessary. You might find it useful to contact an arborist (tree surgeon) for help with defining appropriate work. Where trees are protected by a TPO, please number them as shown in the First Schedule to the TPO where this is available. Use the same numbers on your sketch plan (see guidance notes).

Please provide the following information below: tree species (and the number used on the sketch plan) and description of works. Where trees are protected by a TPO you must also provide reasons for the work and, where trees are being felled, please give your proposals for planting replacement trees (including quantity, species, position and size) or reasons for not wanting to replant.  
E.g. Oak (T3) - fell because of excessive shading and low amenity value. Replant with 1 standard ash in the same place.

T1 EUCALYPTUS. CUT TO GROUND LEVEL AS TREE IS GROWING INTO BT LINES AND OVER DRAINS AND TOWARDS HOUSE.

## 7. Identification Of Tree(s) And Description Of Works continued ...

### 8. Trees - Additional Information

Additional information may be attached to electronic communications or provided separately in paper format.

#### For all trees

A sketch plan clearly showing the position of trees listed in Question 7 must be provided when applying for works to trees covered by a TPO. A sketch plan is also advised when notifying the LPA of works to trees in a conservation area (see guidance notes). It would also be helpful if you provided details of any advice given on site by an LPA officer.

#### For works to trees covered by a TPO

Please indicate whether the reasons for carrying out the proposed works include any of the following. If so, your application must be accompanied by the necessary evidence to support your proposals. (See guidance notes for further details)

1. **Condition of the tree(s)** - e.g. it is diseased or you have fears that it might break or fall: ☐ Yes ☐ No  
If YES, you are required to provide written arboricultural advice or other diagnostic information from an appropriate expert.

2. **Alleged damage to property** - e.g. subsidence or damage to drains or drives. ☐ Yes ☐ No  
If YES, you are required to provide for:

#### *Subsidence*

A report by an engineer or surveyor, to include a description of damage, vegetation, monitoring data, soil, roots and repair proposals. Also a report from an arboriculturist to support the tree work proposals.

#### *Other structural damage (e.g. drains, walls and hard surfaces)*

Written technical evidence from an appropriate expert, including description of damage and possible solutions.

#### Documents and plans (for any tree)

Are you providing separate information (e.g. an additional schedule of work for Question 7)? ☐ Yes ☐ No

If YES, please provide the reference numbers of plans, documents, professional reports, photographs etc in support of your application. If they are being provided separately from this form, please detail how they are being submitted.



### 9. Authority Employee / Member

With respect to the Authority, I am:

- (a) a member of staff      (c) related to a member of staff  
(b) a selected member      (d) related to an elected member

Do any of these statements apply to you?

☐ Yes

☒ No

If Yes, please provide details of the name, relationship and role

|  |
|--|
|  |
|--|

### 10. Application For Tree Works - Checklist

Only one copy of the application form and additional information (Question 8) is required. Please use the guidance and this checklist to make sure that this form has been completed correctly and that all relevant information is submitted. Please note that failure to supply precise and detailed information may result in your application being rejected or delayed. You do not need to fill out this section, but it may help you to submit a valid form.

#### Sketch Plan

- A sketch plan showing the location of all trees (see Question 8)



For all trees  
(see Question 2)

- Clear identification of the trees concerned.
- A full and clear specification of the works to be carried out



For work to trees protected by a TPO  
(see Question 7)

Have you:

- stated reasons for the proposed work?
- provided evidence in support of the stated reasons in particular:
  - If your reasons relate to the condition of the tree(s) - written evidence from an appropriate expert
  - If you are alleging subsidence damage - a report by an appropriate engineer or architect and one from an arboriculturalist.
  - In respect of other structural damage - written technical evidence.
- included all other information listed in Question 8?



### 11. Declaration - Trees

We hereby apply for consent/ give notice for tree work as described in this form and the accompanying plans and additional information.

Signed - Applicant:

Signed - Agent:

|  |
|--|
|  |
|--|

|  |
|--|
|  |
|--|

Date (DD/MM/YYYY):

26/04/2021

(This date must not be before the date of sending or hand-delivery of the form)

### 12. Applicant Contact Details

Telephone numbers

Country code:      National number:      Extension number:

Country code:      Mobile number (optional):

Country code:      Fax number (optional):

Email address (optional):

### 13. Agent Contact Details

Telephone numbers

Country code:      National number:      Extension number:

Country code:      Mobile number (optional):

Country code:      Fax number (optional):

Email address (optional):

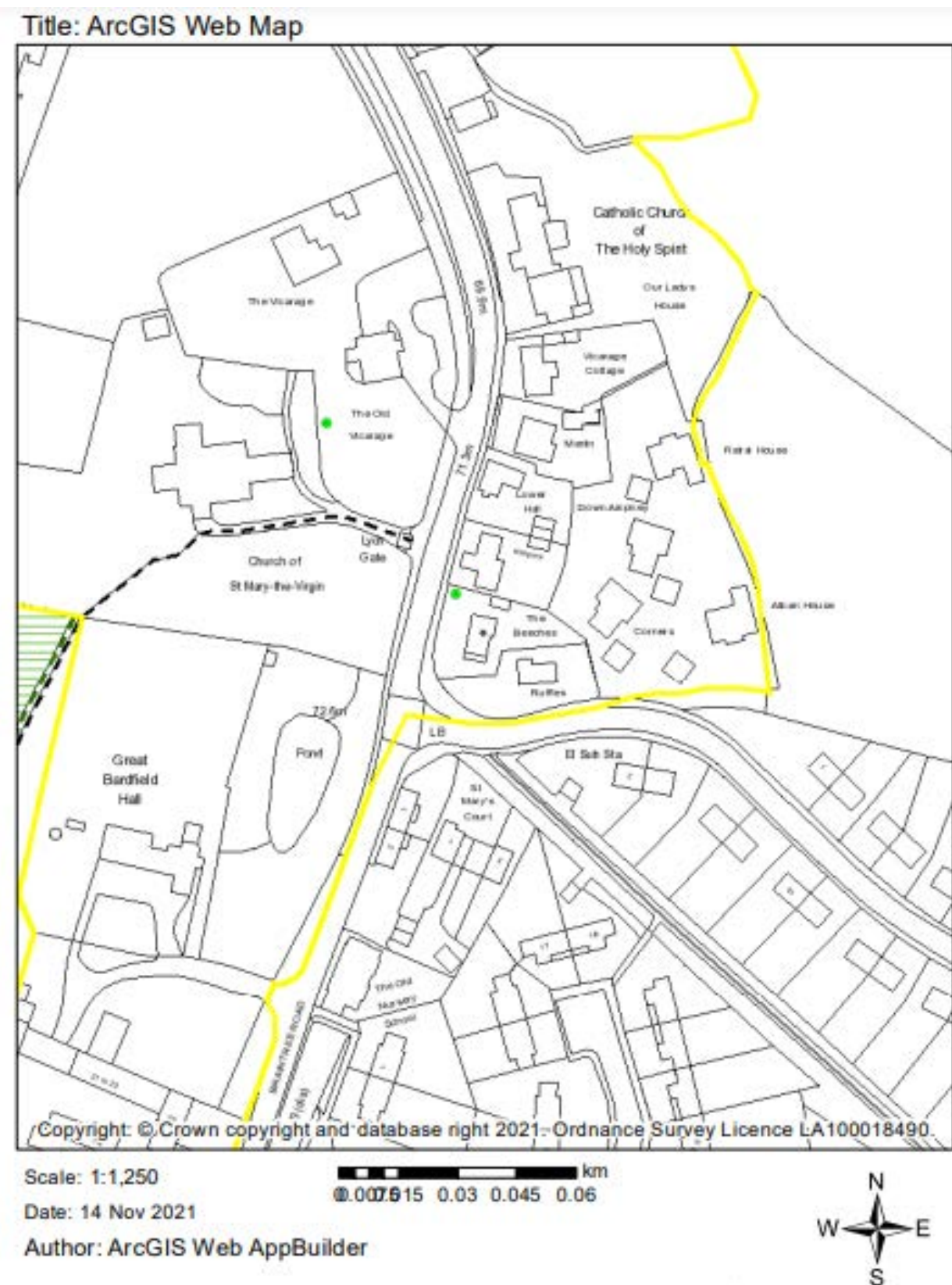
Electronic communication - If you submit this form by fax or e-mail the LPA may communicate with you in the same manner. (also see guidance notes)

BRAINTREE ROAD

Beaches

OT

## Appendix 5: Map of The Beeches and the immediate area



## Appendix 6: Photographs

View of eucalyptus in front of The Beeches, The Street



**View of eucalyptus from Braintree Road, at the junction of Braintree Road and Bendlowes Road**





**View of eucalyptus from Braintree Road, from in front of Keepers**





View of front garden wall in front of eucalyptus at The Beeches





Close up view of the eucalyptus





## **Appendix 7: Letter from Mr. Forbes dated 17th November 2021 and Photographs from Meeting on site**

### **Objection received from Mr. Forbes on 17.11.2021:**

'I'm writing this morning with some photographic evidence of a hazard and that is causing accidents on a public pathway in great bard field.

Recently I had a lady with an open flesh wound to her left hand as she collided with the top of the wall and knocked herself over - to my knowledge the lady has no broken bones but she was very unsteady on her feet after the accident.

I then thought pressing to contact Braintree Council today after speaking with a young lady/representative that came to my next door neighbours address and didn't seem too worried about the accident that had occurred, or possibility of future accidents.

The young lady seemed more worried about the wellness of the tree than the busy path and his residence using the path safely. The lady seemed to lack empathy but she was very young - she was very punctual for the meeting but didn't seem to see what was in front of her.

I am in contact with the lady that had the accident and I've asked her for her written evidence of her collision with the wall and I was obviously apologetic saying that we will get the wall straightened and this will never happen again - she was very appreciative on me checking on her after the accident happened.

On behalf of my neighbour I would like Braintree district Council to confirm that this is an ongoing issue and has been delayed by Braintree district Council on removing the dangerous tree as Martin next door is worried that a lawsuit may be given to him as he is apparently responsible for the safety of the tree. I also am worried that as the wall moves more into the path-way it may fall over or force people to walk into the road if they are walking in pairs on the path.

Since this accident i've had to put caution tape on the wall so that people can see the hazard in front of them.

I'm happy to keep Braintree district Council informed of the ladies well-being and recovery.

Photos of angle oh wall and how close the tree finished on the surface next too the wall it's pushing.'

Photographs received from Mr. Forbes on 17.11.2021:







**Photographs taken at the meeting on 17.11.2021 by Cara Hitt:**

View of front garden wall in front of eucalyptus at The Beeches



View of boundary fence next to eucalyptus

