

# **PLANNING COMMITTEE AGENDA**

**Tuesday, 07 January 2020 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 webcast and audio recorded)*  
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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 K Bowers	Councillor F Ricci
Councillor T Cunningham	Councillor Mrs W Scattergood (Chairman)
Councillor P Horner	Councillor Mrs G Spray
Councillor H Johnson	Councillor N Unsworth
Councillor D Mann	Councillor J Wrench
Councillor A Munday	

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

A WRIGHT  
Chief Executive

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

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

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

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

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 working day before the day of the Committee meeting. For example, if the Committee Meeting is due to be held on a Tuesday, the registration deadline is midday on Monday, (where there is a bank holiday Monday you will need to register by midday on the previous Friday).

The Council reserves the right to decline any requests to register to speak if they are received after this time. Members of the public can remain to observe the public session of the meeting.

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

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

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

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

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

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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)

## **PUBLIC SESSION**

**Page**

**1     Apologies for Absence**

**2     Declarations of Interest**

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

**3     Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meeting of the Planning Committee held on 17th December 2019 (copy 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>Application No. 19 01388 FUL - Land rear of 1 and 3 Castle, Lane, CASTLE HEDINGHAM</b> | <b>6 - 22</b>  |
| <b>5b</b> | <b>Application No. 19 01475 OUT - Land South of Bovingdon Road, BRAINTREE</b>             | <b>23 - 54</b> |
| <b>5c</b> | <b>Application No. 19 01803 FUL - Hatfield Bury Farm, Bury Lane, HATFIELD PEVEREL</b>     | <b>55 - 90</b> |

### **PART B**

#### **Minor Planning Applications**

There are no applications under PART B.

#### **Urgent Business - Public Session**

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

**7 Exclusion of the Public and Press**

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

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

**PRIVATE SESSION**

**Page**

**8 Urgent Business - Private Session**

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

## PART A

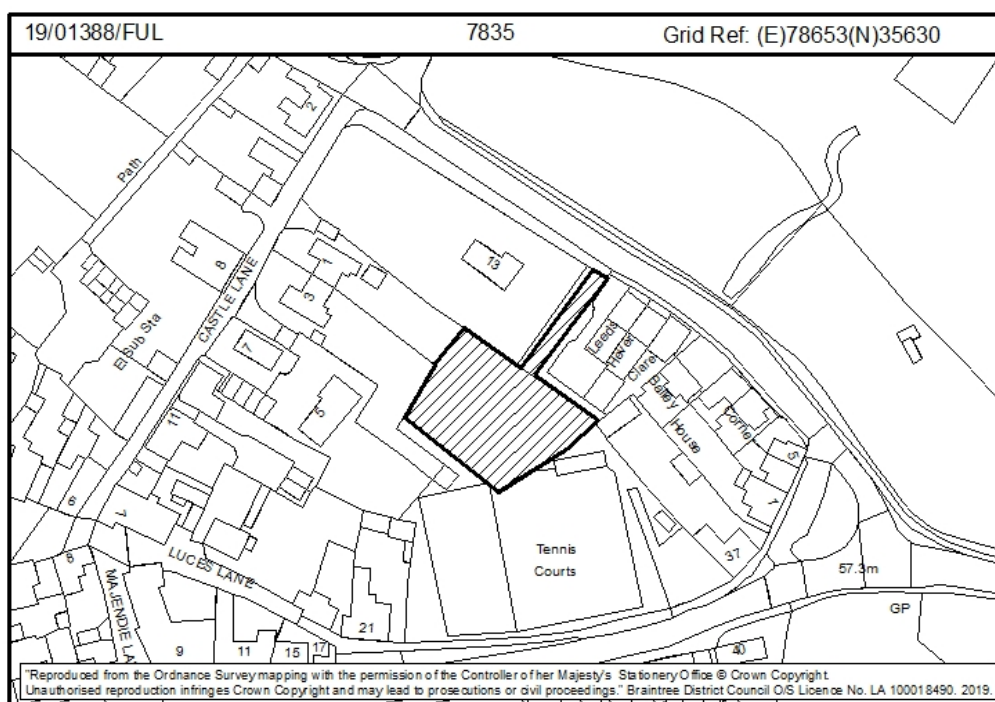
## AGENDA ITEM NUMBER 5a

APPLICATION NO: 19/01388/FUL      DATE: 31.07.19  
VALID:  
APPLICANT: Mr & Mrs Beagrie  
5 Castle Lane, Castle Hedingham, Halstead, CO9 3DL  
AGENT: Oswick Ltd  
Mr Damian Lockley, Oswick Ltd, 5/7, Head Street,  
Halstead, CO9 2AT  
DESCRIPTION: Erection of a single storey dwelling below ground level  
together with a garage and bin store at ground level  
LOCATION: Land Rear Of 1 And 3, Castle Lane, Castle Hedingham,  
Essex

For more information about this Application please contact:

Mr Sam Trafford on:- 01376 551414 Ext. 2520

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



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PVIC9UBFH R600>

## SITE HISTORY

09/00032/REF	Erection of dwelling below ground level together with garage and bin store at ground level	Appeal Allowed	18.02.10
07/02198/FUL	Erection of detached dwelling & double cartlodge	Refused	18.12.07
08/01963/FUL	Erection of dwelling below ground level together with garage and bin store at ground level	Refused then allowed on appeal	03.04.09
13/00687/FUL	Erection of a single storey dwelling below ground level together with a garage and bin store at ground level	Granted with S106 Agreement	30.09.13
16/01285/DAC	Application for approval of details reserved by condition nos. 3, 4, 5, 6, 7, 8 and 11 of approved application 13/00687/FUL	Granted	05.09.16
19/00251/FUL		Application Returned	

## POLICY CONSIDERATIONS

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

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

The Publication Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government.

The joint North Essex-Authorities (NEAs) have received a post hearing letter dated 8<sup>th</sup> June 2018. This letter outlined a number of short comings about the

Garden Communities in the Section 1 Plan relating to transport infrastructure, employment, viability, and the sustainability appraisal.

The letter has outlined 3 options for how to proceed with the Section 1 Publication Draft Local Plan.

- Option 1 – Remove the Garden Communities proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time.
- Option 2 – The NEAs carry out further work on evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2 examinations. This option would result in the suspension of the examination, and the part 2 examination could not take place.
- Option 3 – Withdraw Section 1 and Section 2 of the Plans from examination and to resubmit them with any necessary revisions, after carrying out required further work on the evidence base and Sustainability Appraisal, and the relevant consultation and other procedures required by legislation.

A further Supplementary Post-hearing letter dated 27<sup>th</sup> June has also been received. This letter provided the Inspectors views on policy SP3 of the Section 1 Plan which covers housing requirements. The letter concludes that the housing requirement figures for each of the NEAs set out in policy SP3 is its respective objectively-assessed housing need, which for Braintree is 716 dwellings per annum.

The North Essex Authorities have agreed to produce further evidence to present to the Planning Inspector on the section 1 Local Plan. The authorities will need to agree with the Planning Inspector a timetable for the completion of this work, but this will result in a delay to the adoption of the Local Plan.

In accordance with paragraph 48 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

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

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

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

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



It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 48 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

### National Planning Guidance

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

### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP3	Development within Town Development Boundaries and Village Envelopes
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP56	Vehicle Parking
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP64	Contaminated Land
RLP65	External Lighting
RLP74	Provision of Space for Recycling
RLP77	Energy Efficiency
RLP90	Layout and Design of Development
RLP95	Preservation and Enhancement of Conservation Areas
RLP138	Provision of Open Space in New Housing Developments

### Braintree District Local Development Framework Core Strategy 2011

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

### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP50	Built and Historic Environment
LPP55	Layout and Design of Development

Neighbourhood Plan

None

Other Material Considerations

Essex Design Guide

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

Essex Parking Standards

INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to the Planning Committee in accordance with the Council's scheme of delegation as Castle Hedingham Parish Council has objected to the proposal contrary to Officer recommendation.

SITE DESCRIPTION

The application site consists of an irregular rectangular shaped plot tapering inwards toward the public highway. The site is situated within the village envelope and Conservation Area of Castle Hedingham.

The site is accessed via Bayley Street. The site is well screened from public views by mature trees along 3 sides of the site. To the west and the north east of the site are two-storey residential dwellings and to the north of the site is a detached bungalow set in a large plot. There are tennis courts to the south of the site.

The Grade I Listed Hedingham Castle Keep is approximately 275 metres to the north, and the Grade II\* listed Hedingham Castle is approximately 295 metres to the north-east. To the south-west is St. Nicholas' Church, a Grade I listed building.

PROPOSAL

This is an application for full planning permission for the erection of a single storey residential dwellinghouse to be installed below ground level, with a garage and bin store building at ground level. The dwelling would be below ground with glass 'pods' installed in the ground providing natural light inside. Other than for the glass pods the entire roof structure will be turfed.

The plans show a double garage being installed to the south-east of the site, with a bin-store lean-to. This building would measure 6 metres x 6 metres, and 5 metres in height to the ridge. The building would be finished in black weatherboarding with a red brick plinth and red clay pantiles.

## CONSULTATIONS

### ECC Historic Buildings

Declines to comment on the application, however notes the previous advice offered in relation to the previous application, and the appeal decision which established the principle of a new dwelling on the site.

### ECC Archaeology

No Objections. Recommends no conditions.

### ECC Highways

No Objections. Recommends no conditions.

### Castle Hedingham Parish Council

Raises objection to the application; on grounds that the proposed development would result in a detrimental impact on water, subsidence, and a lack of information relates to the location of removed spoil.

## REPRESENTATIONS

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

### Background

This application follows a number of other planning applications and a planning appeal at the site for residential development.

The first application at the site (Application Reference 07/02198/FUL) proposed the erection of a one and a half storey dwellinghouse. The application was refused as it was considered that 'the size, scale and siting of the proposed dwelling alters the character and appearance of the area to the detriment of the setting of the Conservation Area'.

Following that application, a further planning application was made for the erection of an underground dwellinghouse (Application Reference 08/01963/FUL), identical to that proposed within this current application. That application was refused by the Council. The decision was appealed, which was allowed. A copy of the appeal decision has been attached as an Appendix to this report.

In 2013, a further application, reference 13/00687/FUL was made for a development identical to that approved at appeal. This application was approved at Planning Committee on the 24<sup>th</sup> September 2013.

This application forms an application for an identical development to that approved at planning appeal in 2008 and within the 2013 planning application. These permissions form a material consideration in the determination of this application and have established the principle of a dwelling on this site.

## REPORT

### PRINCIPLE OF DEVELOPMENT

#### National Planning Policy Framework (NPPF) 2019

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

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

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

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

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

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

### The Development Plan

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

The application site is located within the designated development boundary as set out in the Adopted Local Plan and Draft Local Plan. In this regard, the development is considered to comply with the Braintree District Development Plan.

### 5 Year Housing Land Supply

A material consideration in this case, is the Council's current housing land supply position. In July 2018 the Government published the new National Planning Policy Framework 2018 (NPPF2) which was subsequently revised in February 2019 (NPPF3). These revisions to national policy changed the basis of how the 5 year housing land supply is calculated. The Council is bound to take into account this revised version of national policy by s.70(2)(C) Town and Country Planning Act 1990.

For decision making purposes, as Braintree District Council does not have an up to date Local Plan, the Council is currently required to calculate supply using the Government's Standard Methodology, until such time as the new Local Plan is adopted.

The Council has recently received decisions from the Secretary of State in relation to the Brook Green appeal and the 'Call In' applications in Hatfield Peverel (Land South of Stonepath Drive and Gleneagles Way) in which the Secretary of State found that the supply position was 4.15 years supply. Having considered the evidence, the Secretary of State excluded 10 sites from the deliverable 5 year supply believing there was not clear evidence of deliverability as required by PPG. No justification or reasoning was provided in the decisions, but in excluding just the 10 sites from the supply, the Secretary of State has by default accepted the Council's evidence in respect all other sites.

The Council has reviewed the position in respect of the 10 sites which the Secretary of State did not include. The Secretary of State has not explained why these sites were considered to not meet the clear evidence test; the Council has requested the principles of this explanation, which is needed for interpreting evidence for current and future supply assessments of sites; but has been advised by the Case Work Unit that the information will not be provided.

Having reviewed the evidence, the Council has concluded that the 2018-2023 5 year supply position should be amended by the deletion of 3 sites on which

there is not yet sufficient clear evidence of deliverability (Land rear of Halstead Road, Earls Colne; Land south of Maltings Lane, Witham; and Former Bowls Club site at Ivy Chimneys, Hatfield Road, Witham). The Council considers that the remaining 7 sites (Sudbury Road, Halstead; Inworth Road, Feering; Panfield Lane, Braintree; Monks Farm, Station Road, Kelvedon; Conrad Road, Witham; Ashen Road, Ridgewell; The Limes, Gosfield), meet the clear evidence requirement and as such should be included within the supply: all of these 7 sites are the subject of detailed planning applications from developers with confirmation from the developers that they will deliver completions before 2023; one of the sites is an adopted allocation with a hybrid application the subject of a Resolution to Grant and one of the sites is even actively under construction; confirming the reasonableness of the Councils assessment.

Consequently, it is considered that the revised 5 year supply position for Braintree District for the period 2018-2023 is 5.15 years supply.

Although the Council considers that the supply indicated above represents a robust assessment of the Council's Housing Land Supply position, the Council's latest 5 year supply figure of 5.15 years, as at 6th August 2019 must be considered in the context of the emerging Publication Draft Local Plan. The Publication Draft Local Plan which currently sits with the Inspector must be able to demonstrate a 5 Year Housing Land Supply in order for it to be found sound and adopted. Unlike the current methodology for calculating 5 year supply which takes account of housing undersupply in the standard methodology formula, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years. This will result in a higher 5 year supply requirement.

This will need to be considered as part of the overall planning balance, along with any benefits and harms identified within the detailed site assessment considered below.

## SITE ASSESSMENT

### Location and Access to Services and Facilities

The site is located within the village envelope for Castle Hedingham, where in principle there is no objection to development providing it satisfies amenity, design, environmental and highway criteria and where it can take place without material detriment to the existing character of the settlement. The site is within walking distance to the centre of Castle Hedingham, where there is little in the way of services and facilities, however there is a small village shop, a Public House, restaurants and cafes, and a Post Office. There are bus routes nearby to the site which provide access to more sustainable locations, such as Braintree, Halstead and Haverhill.

### Design, Appearance and Layout

Policy RLP3 of the Adopted Local Plan states that the Local Planning Authority will seek to protect the character of the existing street scene, the

setting of attractive buildings and historic interest of the locality, the landscape value of existing tree cover and generally to ensure that new development does not materially detract from the character of the settlement. The Local Planning Authority will also seek to ensure that in the development of infill plots, the scale, design and intensity of any new building is in harmony with existing surrounding development, respects neighbouring amenities and that inappropriate backland development is prevented.

This is supported by Policies RLP10 and RLP90 of the Adopted Local Plan and Policies LPP50 and LPP55 of the Draft Local Plan which state that the Council will only accept high quality development that harmonises with its surroundings in terms of character, appearance and density. Policy CS9 of the Adopted Core Strategy also requires a high quality design.

The site lies within the Castle Hedingham Conservation Area. Policy RLP95 of the Adopted Local Plan and Policy LPP56 of the Draft Local Plan state that development will only be permitted providing that: the proposal does not detract from the character, appearance and essential features of the Conservation Area; any new development is situated in harmony with the existing street scene and building line, and is sympathetic in size, scale and proportions with its surroundings; architectural details on buildings of value are retained and building materials are authentic and complementary to the building's character.

The Local Planning Authority refused application reference 08/01963/FUL on the grounds that it was considered the proposed development would be inappropriate within the Conservation Area and not preserve or enhance the area. However, at appeal, the Planning Inspector determined that the proposal would conserve and enhance the Conservation Area and not conflict with Policy RLP95 of the Adopted Local Plan. The full reasoning for the Planning Inspector reaching this conclusion is set out within the appeal decision which is attached as an appendix to this report.

Since that appeal decision, a further application 13/00687/FUL has been approved at the site. This granted permission for the same development as proposed within this application now under consideration. That decision was made post the introduction of the NPPF and policies of the Development Plan remain unchanged. The Draft Local Plan policies referenced above do not alter the policy context. The amount of weight to be attached to this decision when considering this application is high.

Castle Hedingham Parish Council has objected to the proposal on the grounds that there would be a detrimental impact upon water, subsidence, and that a lack of information has been provided on the location of removed spoil.

Issues of water supply and subsidence are not planning considerations. There has been a ground investigation carried out, to which the Council's Environmental Health team have raised no objections.

It is noted that the Historic Buildings Consultant has declined to comment on the application. It is understood that they do not agree with the Planning Inspector's decision, however they acknowledge the appeal decision and previous planning permission and the weight which must be attached to it in the decision-making process.

In this regard given the planning history at the site it is considered that the design, appearance and layout of the development and impacts on the Conservation Area have been considered and found to be acceptable. Planning policy has not materially changed since these decisions. The application is considered to be acceptable on these counts, and accords with the abovementioned policies.

#### Highways, Transport and Parking

The proposed dwelling would be accessed via an existing access from Bayley Street, to which ECC Highways raise no objections to the use of. There would be sufficient space on site to provide two parking spaces of 2.9m x 5.5m. Although the garage size is too small to be considered a parking space (requiring internal space of 7m x 3m), there would not be a garage door and therefore would be more akin to a cartlodge than a garage.

As ample parking has been provided, and noting that the Highway Authority have raised no objection to the application, it is considered that there is no reason to reach a different decision in relation to the parking and access arrangements than that which was previously reached.

#### Impacts Upon Neighbouring Residential Amenities

The site forms a backland location, with residential properties to the north-east, north-west, and west of the site. The majority of the proposal is underground with elevated rooflights to provide light and ventilation. It was therefore previously considered that the proposal would not create any loss of privacy to the neighbouring residents, and whilst it was acknowledged that there would be some impacts during construction, these would be short term and can be controlled to some degree through the use of planning conditions.

The Parish Council in their representation raise concern in relation to new dwellings built on the former garage site. It should be noted that the last application approved at the site, in 2013, was approved with these new dwellings place. It is also noted that the application for the dwellings on the garage site were considered with the knowledge that planning permission had been approved for the underground dwelling. These impacts have therefore been considered in depth previously. It is considered that this proposal does not introduce unexpected impacts on those properties and no impacts on light or privacy that would justify the refusal of the application.



### Archaeological Considerations

The site consists undeveloped land within an historic village and within close proximity to Hedingham Castle. In previous applications conditions relating to archaeology were attached to the decisions. An archaeology report has been submitted with this application. ECC Archaeology Services raises no objections to the application on this basis.

### Other Matters

As per the previous planning permissions at the site, it is recommended that permitted development rights are removed. This is to prevent any extension of the dwelling above ground, to prevent any additional rooflights, and to prevent any outbuildings, which could result in harm to the Conservation Area.

Part of the Parish Council's comments include that there is no details of the proposed location of depositing the spoil from the site during construction. A condition is recommended requiring details of the proposed location of depositing the spoil, including details of any change in levels.

### 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 within a town development boundary where the principle of development is acceptable.

Although the Council considers that the supply indicated above represents a robust assessment of the Council's Housing Land Supply position, the Council's latest 5 year supply figure of 5.15 years, as at 6th August 2019 must be considered in the context of the emerging Publication Draft Local Plan. The Publication Draft Local Plan which currently sits with the Inspector must be able to demonstrate a 5 Year Housing Land Supply in order for it to be found sound and adopted. Unlike the current methodology for calculating 5 year supply which takes account of housing undersupply in the standard methodology formula, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years. This will result in a higher 5 year supply requirement.

The Government's policy objective of significantly boosting the supply of homes as highlighted in Paragraph 59 of the NPPF is an important material consideration in this case, however this in itself is not considered to be sufficient to outweigh any conflict with the Adopted Development Plan. In contrast, the above factor in relation to the Publication Draft Local Plan is considered to be an important material consideration.

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).

The site is situated within the designated Town Development Boundary of Castle Hedingham, where the principle of new development is generally accepted. Furthermore the site has until recently benefitted from planning permission for an identical scheme. The proposed building would see economic benefits, through the creation of construction jobs while construction is underway, and the contribution that the occupiers of the dwellings would make to the District's local economy. There would be a social benefit through the creation of 1 no. dwelling and the contribution that this would make to the Council's 5 year housing land supply (albeit limited by the small scale of the development). There would be a neutral environmental impact. Furthermore, there is a previous permission at the site which forms a material consideration, and establishes the principle of residential development on this site.

When considering the planning balance, having regard to the Development Plan, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the proposed development would be acceptable, and recommend that planning permission is granted.

### RECOMMENDATION

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

### APPROVED PLANS

Location Plan		
Topographical Survey	Plan Ref: 0319026/TCP	
Ground Floor Plan	Plan Ref: 1227/5	Version: A
Elevations	Plan Ref: 1227/7	
Section	Plan Ref: 1227/6	

- 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 take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason

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

- 4 Prior to their installation, details to show the proposed new windows and doors shown in section and elevation and roof lights shown in section and plan at scales of between 1:20 and 1:1 as appropriate, and details of the glazing system to be used in the roof lights to minimise escape of light, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and shall thereafter be retained.

Reason

To ensure the use of appropriate detailing within the Conservation Area.

- 5 No above ground development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These works shall be carried out as approved, in accordance with an approved written timetable, and shall thereafter be retained. Details of hard landscape works shall include: means of enclosure, including gates, walls and fences; and hard surfacing materials, including details of construction methods. Details of soft landscape works shall include; all areas of turfing, indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development; and proposed seeding treatment, species of trees and shrubs and their sizes and positions, and the specification and timetable

for their planting. If, within a period of 5 years from the date of planting, any tree or plant is removed, uprooted, destroyed or dies, another of the same species and size shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

Reason

To enhance the appearance of the development and in the interests of amenity and privacy.

- 6 No development shall take place until details of a system of sustainable drainage to control the movement of water through the ground around the building have been submitted to and approved in writing by the local planning authority. The system shall be installed as approved and shall thereafter be retained.

Reason

To ensure a satisfactory method of surface water drainage.

- 7 Prior to the commencement of development, details of the proposed location for depositing of the spoil arising from the excavation of the site to facilitate the proposed dwelling shall be submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and permanently maintained as such.

Reason

To ensure the use that the proposed development does not prejudice the character and appearance of the Conservation Area.

- 8 No development shall take place until full details of the finished levels, using ordnance datum, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

Reason

To ensure the use of appropriate detailing within the Conservation Area.

- 9 Notwithstanding the provisions of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that order) no gate, fence, wall or other means of enclosure (other than as expressly authorised by this permission) shall be erected or constructed within the curtilage of the site 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 boundary treatments, enclosures and other forms of hard landscaping, in the interests of the Castle Hedingham Conservation Area and visual amenity.

- 10 Notwithstanding the provisions of Classes A, B, C and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order) no enlargement of the dwelling house or addition or alteration to its roof or other alteration to the roof shall take place nor the erection within the curtilage of any building or enclosure (other than those expressly authorised by this permission).

Reason

In order that the local planning authority may exercise control over any proposed future extensions / outbuildings in the interests of residential and/or visual amenity.

- 11 The development shall be carried out in accordance with the details set out in the Arboricultural Impact Assessment by J.L. Denney dated 22 May 2019.

Reason

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

- 12 No excavation works, including the export of excavated materials from the site, shall take place outside the following times:

Mondays to Fridays 0800 to 1800;  
Saturdays 0800 to 1300;  
Sundays and Bank Holidays no working permitted.

Reason

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

- 13 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- The storage of plant and materials used in constructing the development;
- Wheel washing facilities;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- Delivery, demolition and construction working hours.

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

Reason

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

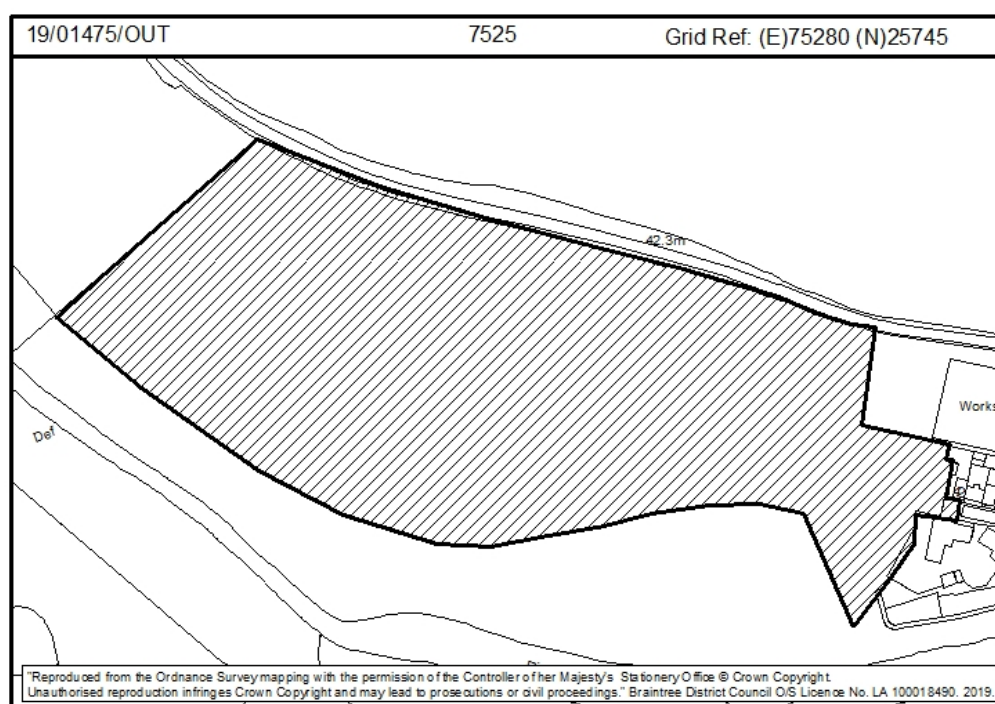
CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

PART A

AGENDA ITEM NUMBER 5b

APPLICATION NO: 19/01475/OUT      DATE: 12.08.19  
VALID:  
APPLICANT: Mr Andrew Allocca  
C/O Phase2 Planning, 270 Avenue West, Great Notley,  
CM77 7AA  
AGENT: Mr Michael Calder  
270, Avenue West, Great Notley, CM77 7AA  
DESCRIPTION: Outline application with some matters reserved for new  
residential development comprising of up to 86 dwellings  
alongside associated works with all matters reserved apart  
from access.  
LOCATION: Land South Of, Bovingdon Road, Braintree, 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=PW493EBFH Y600>

## SITE HISTORY

92/01383/MIN	Erection of waste compactor/transfer station	No Objections Raised	21.01.93
93/00651/MIN	Proposed waste compactor/transfer station building	Deemed Permitted	11.08.93

## POLICY CONSIDERATIONS

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

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

The Publication Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government.

The joint North Essex-Authorities (NEAs) have received a post hearing letter dated 8<sup>th</sup> June 2018. This letter outlined a number of short comings about the Garden Communities in the Section 1 Plan relating to transport infrastructure, employment, viability, and the sustainability appraisal.

The letter has outlined 3 options for how to proceed with the Section 1 Publication Draft Local Plan.

- Option 1 – Remove the Garden Communities proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time.
- Option 2 – The NEAs carry out further work on evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2 examinations. This option would result in the suspension of the examination, and the part 2 examination could not take place.



- Option 3 – Withdraw Section 1 and Section 2 of the Plans from examination and to resubmit them with any necessary revisions, after carrying out required further work on the evidence base and Sustainability Appraisal, and the relevant consultation and other procedures required by legislation.

A further Supplementary Post-hearing letter dated 27<sup>th</sup> June has also been received. This letter provided the Inspectors views on policy SP3 of the Section 1 Plan which covers housing requirements. The letter concludes that the housing requirement figures for each of the NEAs set out in policy SP3 is its respective objectively-assessed housing need, which for Braintree is 716 dwellings per annum.

The North Essex Authorities have agreed to produce further evidence to present to the Planning Inspector on the section 1 Local Plan. The authorities will need to agree with the Planning Inspector a timetable for the completion of this work, but this will result in a delay to the adoption of the Local Plan.

In accordance with paragraph 48 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

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

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

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

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

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 48 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

## National Planning Guidance

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

## Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP49	Pedestrian Networks
RLP56	Vehicle Parking
RLP50	Cycleways
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP55	Travel Plans
RLP62	Development Likely to Give Rise to Pollution or the Risk of Pollution
RLP64	Contaminated Land
RLP69	Sustainable Urban Drainage
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP80	Landscape Features and Habitats
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP94	Public Art
RLP106	Archaeological Excavation and Monitoring
RLP138	Provision of Open Space in New Housing Developments
RLP163	Infrastructure and Community Facilities

## Braintree District Local Development Framework Core Strategy 2011

CS1	Housing Provision and Delivery
CS2	Affordable Housing
CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment
CS10	Provision for Open Space, Sport and Recreation
CS11	Infrastructure Services and Facilities

## Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Strategy for North Essex
SP3	Meeting Housing Needs
SP7	Development & Delivery of New Garden Communities in North Essex
LPP1	Development Boundaries

LPP17	Housing Provision and Delivery
LPP33	Affordable Housing
LPP50	Built and Historic Environment
LPP53	Provision of Open Space, Sport and Recreation
LPP60	Heritage Assets and their Settings
LPP63	Archaeological Evaluation, Excavation and Recording
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP69	Tree Protection
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP74	Climate Change

### Neighbourhood Plan

None

### Other Material Considerations

Site Allocations and Development Management Plan

Essex Design Guide

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

Essex Parking Standards

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

This application is being reported to the Planning Committee in accordance with the Council's scheme of delegation as the application is considered to be of significant public interest.

### SITE DESCRIPTION

The application site lies within the countryside, to the west of the Braintree Town Boundary and Bocking Church Street. The site comprises of a parcel of land that has been capped by material which raised the ground levels by approximately 1m following its historic use as a landfill site. The site measures approximately 4ha in size.

Bovingdon Road lies to the north of the application site and beyond this is an agricultural field. To the south of the site is the River Pant. A public right of way lies to the south of the river and beyond this is open countryside and Choats Farm. To the east of the site residential development and industrial buildings. To the west of the site is an agricultural field.

Part of the site lies within Flood Zone 2, 3 and 3a.

## PROPOSAL

This application seeks Outline Planning Permission, with all matters reserved except access, for the development of up to 86 dwellings with public open spaces and related development. The applicant indicates that 50% of the dwellings would be 'affordable' and this would be secured by a Section 106 Agreement. It is the applicant's intention to apply to Homes England, if planning permission is granted, to convert 40% of the units into additional shared ownership affordable dwellings, with the remaining 10% proposed as market dwellings.

All matters are reserved with the exception of the main vehicular site access which would be on Bovingdon Road and include a potential footway to link to the existing development in Peter Taylor Avenue.

Applications for outline planning permission seek to establish whether the scale and nature of a proposed development would be acceptable to the local planning authority, before a fully detailed proposal is put forward. Besides access all other matters regarding the development (appearance; landscaping; layout; and scale) are Reserved Matters.

The application is also supported by a suite of documents which include –

- Design and Access Statement
- Statement of Community Involvement
- Heritage Statement
- Flood Risk Assessment
- Transport Assessment
- Road Safety Audit
- Biodiversity Survey and Report
- Landscape and Visual Impact Assessment
- Tree Survey
- Planning Statement
- Urban Design Framework Plan
- Indicative Layout Plan
- Proposed Highway Access Plan
- Landscape Details
- Land Contamination Assessment
- Accommodation Schedule

The density of the development would be approximately 21.5 dwellings per hectare over an area of 4ha. The development framework plan also indicates children's play area, boundary planting, landscaping and SuDS features.

## CONSULTATIONS

### Historic Buildings Consultant

Whilst all matters except access are reserved, the indicative plans submitted do not appear to have responded to the site's sensitivities with limited landscaping and the introduction of three storey dwellings on the northern boundary which would be a significant visual intrusion.

The proposals would fail to preserve the special interest of the aforementioned listed buildings, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and also fail to preserve or enhance the character and appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. With regards to the National Planning Policy Framework (2019), the level of harm is considered less than substantial. As such the local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use (Para.196). It is noted that, as the application is all matters reserved except access, it is not possible to accurately determine a level of harm which would be caused by the proposed. Furthermore the proposed fails to make a positive contribution to local character and distinctiveness (Para.192c).

### Environment Agency

#### **Flooding**

Our maps show the site lies within fluvial Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for Residential development comprising of up to 86 dwellings, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

#### **Contaminated land**

Submitted documents have been reviewed by the Environment Agency and a number of conditions have been requested regarding: the submission of an additional remediation strategy should previously unidentified contamination be found; proposed drainage system to not result in unacceptable risk to controlled waters; no piling without the consent of the LPA and the management of boreholes.

Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and the Environment Agency state that they would object to the application. We have also provided informative information with regards to Historic Landfill Sites.

### ECC Education

Financial contribution of £134,846 is sought for Early Years and Childcare and £394,250 towards Primary Education.

### NHS

No comments received.

### BDC Environmental Health

During the life of the application, further documents were received with regards contaminated land. The Council's Senior Environmental Health Officer however is still not satisfied with the level of the detail provided by the applicant and recommends the refusal of the application. Further details with regards this issue are set out below.

### BDC Waste Services

In the shared private driveways, where BDC are required to access to carry out waste collections from the properties, BDC Waste Services will need assurances that access to them will be given, and that in doing so, these driveways are built to a standard similar to adopted highway, and that BDC will not be accountable for damage claims.

### BDC Landscape Services

Objections raised as this proposal will extend the built form outside the town envelope and diminish the distinctiveness and character of the village and the surrounding countryside by no longer posing as a part of the transitional space between west Braintree expansion and Bocking village.

### BDC Ecology

No objection subject to securing biodiversity mitigation and enhancement measures.

### ECC Highways

From a highway and transportation perspective, the impact of the proposal is acceptable to the Highway Authority subject to the creation of the site access as shown in principle on planning application drawing 1209/HWY/993 Rev B, a conditions requiring a Residential Travel Information Packs for each dwelling and the upgrade of the pair of bus stops which would best serve the development.

In addition, all housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code,

Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

#### Anglian Water

No objection.

#### Essex Police

Whilst there are no apparent concerns with the layout, in order to comment further we would require the finer detail such as the proposed lighting, boundary treatments and physical security measures. It should however be noted that where the designated parking is to the rear of a dwelling this likely to become the primary entrance and as a result gate and door security should reflect this i.e. gate key lockable from either side.

#### ECC SuDS

No objections, a number of conditions suggested.

#### BDC Housing and Research

In accordance with Policy CS2 of the Adopted Core Strategy, the outline proposal for up to 86 residential dwellings requires 30% to be provided as affordable housing which would equate to 25 affordable dwellings. However, the applicant Greenfields Community Housing, is initially offering 43 units as affordable housing which equates to 50% with the additional aim, subject to securing funding from Homes England, of increasing the affordable element further to around 90%. This approach we fully support as it has the potential for considerable additionality.

#### Natural England

It has been identified that this development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

It is advised that you undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation, consulting with Natural England where necessary. You should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

### Health and Safety Executive

No comments received.

### National Grid

No objection.

### PARISH / TOWN COUNCIL

None.

### REPRESENTATIONS

3 representations received making the following comments:

- Increased traffic on roads that won't be able to cope
- Concern about the potential for a road through Peter Taylor Avenue and the safety issues it would cause
- The local services do not have the capacity to service what could be 100's of new residents.
- Loss of local wildlife and habitat
- Concern about noise from development and structural impact on No.42 Peter Taylor Avenue
- Loss of value to neighbouring properties by the introduction of affordable housing on the adjacent land
- Will be leaving the EU soon and the great need for extra housing will cease to exist.
- Services are not available for extra residents
- Site not included in the current or emerging local plan
- Greenfield site
- Would set a precedent for further development on greenfield sites
- If the LPA grants permission for this site to be developed, then it will be providing further evidence to speculative developers that local planning policy is un-robust and site allocations need not be paid attention to.
- Understand the LPA is under great pressure to justify its housing figures which is exacerbated by inconsistent approaches by the Government, but it should be confident in defending this site as an unallocated site.
- Concerns the proposal would have on flooding downstream of the site



## REPORT

### Principle of Development

#### National Planning Policy Framework (NPPF)

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

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

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

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

In this regard, and in considering the overall planning balance as to whether the proposed development subject to this application constitutes sustainable development, an important material consideration in this case is the Council's 5 Year Housing Land Supply position.

## The Development Plan

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

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

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

The application site is not proposed for allocation for development in the Draft Local Plan. The proposed development is therefore contrary to the Draft Local Plan, in particular Policy LPP1 of the Draft Local Plan which states that outside development boundaries development will be strictly controlled to uses appropriate to the countryside.

The proposed development is therefore considered to be contrary to the Adopted Development Plan and the Draft Local Plan.

## 5 Year Housing Land Supply

A material consideration in this case, is the Council's current housing land supply position. In July 2018 the Government published the new National Planning Policy Framework 2018 (NPPF2) which was subsequently revised in February 2019 (NPPF3). These revisions to national policy changed the basis of how the 5 year housing land supply is calculated. The Council is bound to take into account this revised version of national policy by s.70(2)(C) Town and Country Planning Act 1990.

For decision making purposes, as Braintree District Council does not have an up to date Local Plan, the Council is currently required to calculate supply using the Government's Standard Methodology, until such time as the new Local Plan is adopted.

The Council has recently received decisions from the Secretary of State in relation to the Brook Green appeal and the 'Call In' applications in Hatfield Peverel (Land South of Stonepath Drive and Gleneagles Way) in which the Secretary of State found that the supply position was 4.15 years supply. Having considered the evidence, the Secretary of State excluded 10 sites from the deliverable 5 year supply believing there was not clear evidence of

deliverability as required by PPG. No justification or reasoning was provided in the decisions, but in excluding just the 10 sites from the supply, the Secretary of State has by default accepted the Council's evidence in respect all other sites.

The Council has reviewed the position in respect of the 10 sites which the Secretary of State did not include. The Secretary of State has not explained why these sites were considered to not meet the clear evidence test; the Council has requested the principles of this explanation, which is needed for interpreting evidence for current and future supply assessments of sites; but has been advised by the Case Work Unit that the information will not be provided.

Having reviewed the evidence, the Council has concluded that the 2018-2023 5 year supply position should be amended by the deletion of 3 sites on which there is not yet sufficient clear evidence of deliverability (Land rear of Halstead Road, Earls Colne; Land south of Maltings Lane, Witham; and Former Bowls Club site at Ivy Chimneys, Hatfield Road, Witham). The Council considers that the remaining 7 sites (Sudbury Road, Halstead; Inworth Road, Feering; Panfield Lane, Braintree; Monks Farm, Station Road, Kelvedon; Conrad Road, Witham; Ashen Road, Ridgewell; The Limes, Gosfield), meet the clear evidence requirement and as such should be included within the supply: all of these 7 sites are the subject of detailed planning applications from developers with confirmation from the developers that they will deliver completions before 2023; one of the sites is an adopted allocation with a hybrid application the subject of a Resolution to Grant and one of the sites is even actively under construction; confirming the reasonableness of the Councils assessment.

Consequently, it is considered that the revised 5 year supply position for Braintree District for the period 2018-2023 is 5.15 years supply.

Although the Council considers that the supply indicated above represents a robust assessment of the Council's Housing Land Supply position, the Council's latest 5 year supply figure of 5.15 years, as at 6th August 2019 must be considered in the context of the Draft Local Plan. The Draft Local Plan which currently sits with the Inspector must be able to demonstrate a 5 Year Housing Land Supply in order for it to be found sound and adopted. Unlike the current methodology for calculating 5 year supply which takes account of housing undersupply in the standard methodology formula, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years. This will result in a higher 5 year supply requirement.

Whilst the presumption in paragraph 11 of the NPPF is not engaged (due to the presence of a 5 Year Housing Land Supply), given the Local Plan context described above, it is considered that only 'more than moderate but less than significant weight' can be attached to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Core Strategy).

This will need to be considered as part of the overall planning balance, along with any benefits and harms identified within the detailed site assessment considered below.

## 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’.

Policy CS5 of the Adopted 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 Adopted 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
- 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.

Paragraph 122 of the NPPF states that decisions should ensure that developments that generate significant traffic movements are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

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

Policy CS7 of the Adopted Core Strategy states that future development will be provided in accessible locations to reduce the need to travel. The site is located adjacent to the town boundary for Braintree and is within reasonable walking distance to the services and facilities provided within Bocking Church Street.

Overall it is considered that the site is located in a sustainable location on the edge of Bocking. Given the location of the site, it is considered that the site is not isolated and would not conflict with the requirements of Policy CS7 and this weighs in favour the proposal in the overall planning balance.

### Call for Sites

The site was the subject of a Call for Site submission BOCN131 (adjacent to BOCN129 which covered the mill) but the site was rejected for inclusion as a housing allocation.

These were discussed at the following Local Plan meetings:

- 11th July 2013 - SADMP
- 27th Sept 2012
- 17th June 2013
- 11th July 2013
- 15th Dec 2016
- 9th May 2019

The Local Plan Sub Committee's reasons for rejecting the site as a Local Plan allocation include the following:

- Development would be an unnatural extension of development out of Braintree/Bocking along Bovingdon Road, which would intrude into the countryside (Committees 9/5/16, 15/12/16).
- Low landscape capacity (13f)
- Access to the site for employment use is severely limited
- Outside development boundary for Braintree/Bocking, partly within flood zones 2 and 3. There are other sequentially preferable sites available.
- Officers have three concerns regarding this site, relating to flood risk, contamination and viability.
- The site is not included in the Braintree District Brownfield Land Register.

The Local Plan Sub Committee have had the opportunity to approve this site as a residential allocation on a number of occasions and have not done so due to the abovementioned reasons.

### Design, Appearance and Layout

Paragraph 124 the NPPF highlights that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable developments, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 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 CS9 of the Adopted Core Strategy requires the Council to promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment. Specifically by respecting and responding to the local context, especially in the District's historic villages, where development affects the setting of historic and important buildings, conservations areas and areas of highest archaeological and landscape sensitivity. Policy LPP55 of the Draft Local Plan also seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.

This is an outline application where design, layout and landscaping are reserved matters. The application includes a number of indicative plans that indicate the key aspects of the design and layout, such as access, public open space, landscape features and SuDs features. It is indicated that the density of the development of the whole site of up 86no. dwellings would be 21.5 dwellings/hectare. The dwellings are a mixture of houses and flats.

Whilst the layout of the development is a matter reserved for consideration at a later date, Officers have to be satisfied that the site is capable as accommodating the number of dwellings proposed along with suitable space for policy compliant level of car parking, garden space, open space and SuDs.

Based on the indicative layout, the development is extremely car dominant with parking located to the front of many of the dwellings and the over use of parking courts. Whilst the layout proposes a level of car parking that complies with the Adopted Parking Standards, the capacity proposed has been achieved through the use of rear parking courts that are not the places described in the SPD as 'High quality in design and have a sense of place and feel secure, to encourage ownership'.

In addition to the objection to the principle of the development, Officers have other concerns with the layout, as it does not relate at all to Bovingdon Road, unlike development nearby in Bocking. The proposal would result in a form of development that does not relate well to the wider place or countryside by creating an isolated cul-de-sac.

The proposed areas of public open space are poorly laid out as they are open and vulnerable and where areas are used as drainage ponds would not be a functional area of open space.

The layout demonstrates an inadequate amount of land for private amenity space, with many dwellings having gardens much smaller than the standards of the Essex Design Guide. The additional land required would require a reduction in the number of dwellings.

Officers are not satisfied that the area of the site within Flood Zone 1 can successfully accommodate the 80 dwellings proposed in this portion of the site. Moreover, there would be insufficient space for the 6 additional flats proposed within in Flood Zone 3 which would have to be re-located.

Overall it is considered that the development fails satisfy Officers that the site can accommodate up to 86 dwellings and unsuccessfully fails to create a strong sense of place, contrary to Policy RLP90 of the Adopted Local Plan, Policy CS9 of the Core Strategy, Policy LPP55 of the Draft Local Plan and the NPPF.

### Landscape Impact

Paragraph 215 of the Framework is aimed at protecting the environment, landscape character and biodiversity of the countryside. Policy CS8 of the Adopted Core Strategy states that development must have regard to the character of the landscape and its sensitivity to change and where development is permitted it will need to enhance the locally distinctive character of the landscape in accordance with the landscape character assessment. Policy RLP80 of the Adopted Local Plan states that development that would not be successfully integrated into the local landscape will not be permitted. These policies are relevant when considering the landscape impact of this proposal.

The Draft Local Plan includes policies which are relevant to this site. Policy LPP1 seeks to control development outside of development boundaries to uses appropriate to the countryside to protect the intrinsic character and beauty of the countryside. Policy LPP72 seeks to protect defined areas between settlements and requires proposals to demonstrate that the development is located on an area which has the least detrimental impact on the character of the countryside and does not reduce the visually sensitive buffer between settlements or groups of houses.

'Braintree District Settlement Fringes - Evaluation of Landscape Capacity Analysis for Braintree and environs' indicates that the application site lies within the larger parcel B13 and within smaller parcel 13e, which have a medium low capacity to accommodate development. The report states:

'Parcels 13b, 13d, and 13e are located on the south facing slopes to the north of Bocking Churchstreet. Although local undulations would protect some areas from view of public and private viewpoints, the Parcels' capacity is also reduced by the lack of connections to the existing settlements and the intervening valley of a tributary of the River Pant.'

The current setting provides a soft transition between the countryside, the river and the edge of Bocking. This proposal will extend the built form outside the town envelope and diminish the distinctiveness and character of the village and the surrounding countryside by no longer posing as a part of the transitional space between west Braintree expansion and Bocking village.

The application is supported by a Landscape and Visual Impact Assessment (LVIA) which concludes:

‘The current visual quality of the landscape is compromised to a degree, when entering the village from the west due to the more recent modern housing, which differs from the historic core of the village. The building of houses on open ground would have a slight adverse effect on the local landscape character and on views from houses in the immediate vicinity, but this is previously used ground and once the proposed vegetation has matured and the houses have weathered and settled into the local landscape, the impacts should be softened. It is asserted that modest sized dwellings would not detract from the setting if designed sensitively and in keeping with the vernacular. There is an opportunity in this case, to provide additional homes on previously used ground linking in with the existing housing and without having to take valued agricultural land.’

The Council’s Landscape Officer has assessed the submitted LVIA and disagrees with a number of the conclusions drawn.

Point 7- Landscape Character of the LVIA (page 20) refers to the Landscape Character Assessment defending that although “this character area has a relatively high sensitivity to change, the site in this case has already its character altered by modern housing development adjacent to the site”. Officers consider that this is not a reason or an argument to justify further expansions, which no doubt will have a negative impact on the aesthetic quality of the local landscape character.

Point 9.7- Visual Effect of the LVIA (page 22) supplied with this application mentions this development sits about 45m AOD at its lowest. Although the topographic plan also shows 45m AOD along the site’s southwestern boundary adjacent to River Pant and around 47m as the maximum height on site, the drainage plan shows a level increase of approximately 1m throughout the site which will have a direct impact on the visual impact of the proposed development.

Moreover, Officers consider the impacts on wider setting and long distance views have not been fully assessed. This LVIA identifies viewpoints from a number of public receptors but does not include viewpoints from Deanery Hill (58m to 62m) looking North or PROW 68-5 looking South, for instance.

The proposal would introduce built form onto an area of open countryside adjacent to the boundary of Braintree. The application would elongate development along Bovingdon Road, into the open countryside where it is



currently devoid of buildings. Officers consider that the proposal would result in an unnatural extension of Braintree and Bocking into the open countryside.

Given the conflicting conclusions on the visual impact the proposal would have on this area of land that has a low to medium capacity to accommodate development, officers consider that the proposal would conflict with Policies RLP2 and RLP80 of the Adopted Local Plan, Policies CS5 and CS8 of the Adopted Core Strategy, Policies LPP1 and LPP72 of the Draft Local Plan and the NPPF.

### Heritage Impact

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when considering applications for planning Permission there is a duty to have special regard to the desirability of preserving statutorily listed buildings or their settings or any features of special architectural or historic interest which they possess.

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

Paragraph 195 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) The nature of the heritage asset prevents all reasonable uses of the site; and
- b) No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) Conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) The harm or loss is outweighed by the benefit of bringing the site back into use.

Policies RLP90 and RLP100 of the Adopted Local Plan and Policies LPP56 and LPP60 of the Draft Local Plan seek to conserve local features of architectural, historic and landscape importance and the setting of listed buildings. Policy CS9 of the Adopted Core Strategy requires developers to respect and respond to the local context particularly where proposals affect the setting of a listed building.

The site of the proposed development comprises a large field situated upon the western approach to the Bocking Conservation Area which has recently (2015) been restored following gravel extraction in the early twentieth century and subsequent landfill use. Bovingdon Road, which forms the northern boundary of the site, provides an attractive approach to the Conservation Area and retains a strong agrarian character despite the aforementioned recent land uses. The Grade I listed Church of St Mary the Virgin and Grade II\* Bocking Hall - the two highest designated heritage assets within the Conservation Area – are situated upon this approach to Bocking. Despite intervening vegetation, there are a number of views of both heritage assets from Bovingdon Road, Footpath 68\_25 and from within the application site itself as well as of the Bocking Conservation Area more generally. There are also additional longer-distance views such as those from Deanery Hill to the south. The application site is considered to make a positive contribution to local character and distinctiveness as well as contributing to how we are able to experience and interpret the significance of the aforementioned heritage assets.

The application submitted is an outline application for the erection of up to 86 dwellings with all matters reserved apart from access. Although matters regarding scale, layout and design are reserved, the applicant has provided a number of indicative plans and elevations. It is stated that there would be extensive planting, including additional planting to the boundaries of the site.

The erection of dwellings on this site will very likely cause harm to the Church of St Mary the Virgin, the Bocking Conservation Area and, to a lesser degree, Bocking Hall through altering and removing a number of views. Development will also alter character of the site and the western approach to Bocking by introducing further built forms upon land which has previously been identified as making a positive contribution through its agrarian character.

Aspects which would contribute to this harmful impact would be the access, associated light pollution and visibility of built form, none of which could be wholly mitigated against through landscaping – which itself is a reserved matter.

Whilst all matters except access are reserved, the indicative plans submitted do not appear to have responded to the site's sensitivities with limited landscaping and the introduction of three storey dwellings on the northern boundary which would be significant visual intrusion.

The proposals would fail to preserve the special interest of the aforementioned listed buildings, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and also fail to preserve or enhance the character and appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

With regards to the National Planning Policy Framework (2019), the level of harm is considered less than substantial. As such the local planning authority

should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use (Paragraph 196). Officers acknowledge that there are some public benefits linked to the proposal, however it is considered that these benefits would not outweigh the harm to the heritage assets as outlined above.

The application is in outline with details of layout, scale and landscape reserved for consideration at a later date and therefore the exact views that would be harmed by the development are not known at this time. Notwithstanding this it is considered that the development of this site for residential purposes would result in conflict with Policies RLP90 and RLP100 of the Adopted Local Plan, Policy CS9 of the Core Strategy, Policies LPP56 and LPP66 of the Draft Local Plan and the NPPF.

The overall planning balance will be concluded below.

### Contamination

Paragraphs 178 and 179 from the NPPF relates to land contamination. It states that planning decision should ensure that:

- (a) A site is suitable for its proposed use taking into account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- (b) After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- (c) Adequate site investigation information, prepared by a competent person, is available to inform these assessments.

Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Policy RLP64 of the Adopted Local Plan relates to contaminated land. It states that the application proposing development on or near a site where contamination may exist, should carry out a thorough investigation, so as to establish the nature and extent of the contamination. Development will not be permitted unless practicable and effective measures are taken to treat, contain or control any contamination as not to:

- a) Expose the occupiers of the development and neighbouring land uses, including in the case of housing, the users of gardens, to unacceptable risk;

- b) Threaten the structural integrity of any building built, or to be built, on or adjoining the site;
- c) Lead to the contamination of any watercourse, waterbody or aquifer;
- d) Cause the contamination of adjoining land or allow such contamination to continue;
- e) Have an adverse effect upon natural habitats and ecosystems.

Where possible contamination should be treated on site. Any permission for development will require that the remedial measures agreed with the authority must be completed as the first stage of the development.

Policy LPP73 of the Draft Local Plan reflects similar restrictions.

During the life of the application, additional documents were submitted to the LPA with regards contaminated land. The Council's Senior Environmental Health Officer has assessed all of the documentation submitted.

This site is recorded as being a historic landfill site. The Council's Environmental Health team are concerned with the significant amount of material that was used to 'cap' the site between 2013 and 2017. There is no record of planning permission being sought for this engineering operation. This material has been identified within the Geo-Environmental Generic Quantitative Risk Assessment submitted by the applicant as being a significant source of contaminated material. Assessment as to the quantity of the additional material has identified that this is up to 3.5m thick throughout most of the site.

As the applicant is aware, the onus regarding whether land is contaminated, or not, lies with the developer to show, to the Local Authorities satisfaction, that the necessary investigation had been carried out regarding possible contaminated land issues and that the necessary remedial works are and will be carried out once contaminants have been identified.

On consideration of the above and to the various responses and documents that have been submitted, the Council's Environmental Health team has concerns regarding potential contamination issues that have at this moment not been addressed to a satisfactory degree.

Therefore, the Council's Environmental Health team have recommended refusal of the application due to the submission of insufficient information to enable them to fully assess the development. Specifically, the following documentation is considered to be required in this case:

- A further detailed Contaminated Land assessment report detailing and informing this authority of the various concerns that Environmental Health have identified and are concerned about in order to satisfy this authority;

- Receiving a Construction Method Statement report from the Applicants relating to their handling of Asbestos material on site, together with confirmation of their agreed practice with the HSE concerning same. This is to satisfy this authority regarding Public Health;
- Receiving a report from the Applicants regarding their agreed construction activities associated with their liaison with Environment Agency so as to satisfy this authority that the Public Health and the Environment are safe guarded;
- A Structural Engineer Report to assess the degree of the land stability on site; and
- That a full Site Assessment Report (SAR) be carried out

In the absence of the above documents, Officers are not satisfied that the proposal complies with Policy RLP64 of the Adopted Local Plan, Policy LPP73 of the Draft Local Plan and the NPPF.

As outlined above, the historic landfill site was 'capped' with a layer of material which has been identified as being contaminated. A further layer of 'clean' material is suggested by the applicant to deal with this. The layer of soil proposed by the applicant's Risk Assessment Report, for dealing with the contamination presently identified, appears minimal regarding the proposed quality of the residential housing. Although these recommendations are compliant with guidance, (assuming that all of the above concerns are resolved as well) it is anticipated that potential buyers would expect a larger depth of 'clean' soil in their back gardens than the 600mm presently proposed.

It could be argued that many future residents living on the site may have the need to dig in their gardens at a depth in excess of 600mm, tree planting, constructing a shed etc. Residents when faced with the water permeable barrier proposed may well pierce and/or remove this barrier, ignorant of the fact that breach of the barrier is causing cross contamination issues.

Given the above suggested mitigation, Officers are not satisfied that this site is suitable for residential use, as it would be impossible for the LPA to restrict or monitor the digging in private gardens. There is a significant risk that the proposed membrane would be pierced and this would pose a significant contamination risk.

Furthermore the above documents requested by the Council's Environmental Health team have not been submitted by the applicant and therefore in the absence of sufficient information with regards the contamination of the land and suitably methods to remediate the land, the proposal conflicts with Policy RLP64 of the Adopted Local Plan, Policy LPP73 of the Draft Local Plan and the NPPF.

## Drainage and Flooding

Section 14 of the NPPF is concerned with how the Government expects the planning system to consider climate change, flooding and coastal change, and recognises that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change.

Paragraph 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided. Development should instead be directed away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

Policy CS8 of the Adopted Core Strategy states that the Council will minimise exposure of people and property to the risks of flooding by following the national guidance. In particular the sequential test will be applied to avoid new development being located in the areas of flood risk; and SUDS will be used wherever possible to reduce flood risk, promote groundwater recharge, enhance biodiversity and provide amenity benefit, unless, following an adequate assessment, soil conditions and/or engineering feasibility dictate otherwise. Policy LPP78 of the Draft Local Plan and criterion xi) of Policy CS15 of the Adopted Core Strategy reflect the spirit of this.

As outlined above the application is seeking outline permission and an indicative layout drawing has been submitted. Despite the layout of the proposal being reserved for consideration at a later date, it is the responsibility of the applicant to accurately demonstrate that up to 86 dwellings can be suitably accommodated on the site.

The eastern corner of the site lies in Flood Zone 3a where the indicative layout shows that flats 1 to 6 would be located in Flood Zone 3a. As set out in the comments from the Environment Agency, residential development is considered to be 'more vulnerable' development as defined by the Flood Risk Vulnerability Classification table in the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

As outlined above, Officers are not satisfied that the site can accommodate 86 dwelling successfully and therefore the sequential test must be applied to the portion of the site where flats 1 to 6 are to be located.

This portion of the development would fail the sequential test, as more appropriate, less vulnerable sites to accommodate the development are available within the development boundary of Braintree.

Within the FRA submitted in support of the application reference is made to the raising of the land levels carried out a few years ago and that this would change the position of the flood zones in relation to the site. This issue has been raised with the Environment Agency (EA) who has stated that they do

not change their flood zones unless a new model has been designed and that they have quality assured the results and this query has been sent to the technical team at the (EA) for further consideration. Their response will be reported verbally to the committee during the meeting.

Therefore given that a portion of the development is located within Flood Zone 3a which is unacceptable and that this development cannot be accommodated within the portion of the site that lies within Flood Zone 1, as set out above earlier in this report, the proposal conflicts with the NPPF, Policy CS8 of the Adopted Core Strategy and Policy LPP78 of the Draft Local Plan.

In respect of surface water drainage, the application is supported by a Surface Water Drainage Strategy. Essex County Council's SuDS team is satisfied that adequate surface water drainage can be achieved and raises no objections. Conditions are recommended to be attached to any grant of consent.

#### Impact on Neighbour Amenities

The NPPF requires a good standard of amenity for all existing and future occupiers of land and buildings. Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan states that development shall not cause undue or unacceptable impacts on the amenities of nearby residential properties.

The application is seeking outline permission and layout is a matter for consideration at a later date and therefore it is not possible to fully assess the impact it would have on the amenity of neighbouring occupiers.

However the site is well distanced from nearby residential properties adjacent to the site and could be designed appropriately such that it is not anticipated that the proposed development would give rise to any unacceptable impact on the amenity of these neighbouring properties.

#### Highway Issues

Paragraph 109 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

With the National Planning Policy Framework in mind, particularly Paragraph 109, the Highway Authority has reviewed the planning application and supporting Transport Assessment against its own Development Management Policies to ensure the proposal site can be accessed safely, any additional trips would not be detrimental to highway safety and capacity and to ensure as far as possible the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

Having reviewed the Transport Assessment, the Highway Authority is content with its conclusions.

The Highway Authority has also used its own knowledge of the highway network and information it holds in this regard to ascertain whether the network would be able to accommodate the proposal, further what, if any, improvements would be needed. Subject to the content of its recommendation as detailed above, the Highway Authority is satisfied the proposal would not be detrimental to highway safety.

The following comments were also noted by the Highway Authority:

The Highway Authority notes the proposed footway link at the southwest of the site to provide a pedestrian connection to the play area and beyond to Peter Taylor Avenue. However, the Highway Authority considers a cycleway/footway connection to the North East of the site, linking directly with Peter Taylor Avenue would provide a more direct and convenient route and therefore the applicant should use reasonable endeavours to provide a minimum 3.5 metre wide footway/cycleway connection in this location'.

## **PLANNING OBLIGATIONS**

Paragraph 56 of the NPPF sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations. The following identifies those matters that the District Council would seek to secure through a planning obligation, if it were proposing to grant it permission.

**Affordable Housing** – Policy CS2 of the Adopted Core Strategy states that for developments of this size, affordable housing will be provided on-site with a target of 30% affordable housing provision on sites in rural areas.

In accordance with Policy CS2 of the Adopted Core Strategy, the outline proposal for up to 86 residential dwellings requires 30% to be provided as affordable housing which would equate to 25 affordable dwellings. However, the applicant Greenfields Community Housing, is initially offering 43 units as affordable housing which equates to 50%.

**Education** – Financial contribution of £134,846 is sought for Early Years and Childcare and £394,250 towards Primary Education

**Open Space** – Policy CS10 of the Adopted Core Strategy states that the Council will ensure that there is a good provision of high quality and accessible green space. New developments are required to make appropriate provision for publicly accessible green space or improvement of existing accessible green space in accordance with adopted standards.

The Council's Open Space SPD sets out further details on how these standards will be applied. A development of this size would be expected to



make provision on-site for informal and amenity open space and an outdoor equipped play area.

A financial contribution would be sought for outdoor sport and allotments. There is also a requirement to secure the on-going maintenance of any public open space provided on site. These aspects could be secured through a S106 Agreement.

**RAMS** – A financial contribution of £10,517.80 towards off-site visitor management measures for the Blackwater Estuary SPA & Ramsar site.

Subject to the above matters being incorporated into a legal agreement to ensure their provision, the development would be made acceptable in these respects. No such agreement is in place at the present time and therefore the development therefore fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Policies CS2, CS10 and CS11 of the Adopted Core Strategy, Policy RLP138 of the Adopted Local Plan and Policy LLP82 of the Draft Local Plan.

#### Habitat Regulations Assessment (HRA / RAMS)

Natural England have published revised interim guidance on 16th August 2018 in connection with the emerging strategic approach relating to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations.

In accordance with the revised interim guidance an appropriate assessment has been completed for this application, as it falls within the threshold of a scheme of 99 residential units or less and is located within the updated Zones of Influence. Where an appropriate assessment concludes that a likely significant effect would occur, the Local Planning Authority is required to secure a financial contribution towards off site mitigation at the identified natura 2000 sites to mitigate the impact of the development upon these sites.

The site lies within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site. Given the scale of the development, the developer would be required to pay a financial contribution towards offsite visitor management measures for the Blackwater Estuary SPA & Ramsar site, (£122.30 per dwelling) for delivery prior to occupation. These matters would be secured via a Section 106 legal agreement.

#### 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.

Although the Council considers that the supply indicated above represents a robust assessment of the Council's Housing Land Supply position, the Council's latest 5 year supply figure of 5.15 years, as at 6th August 2019 must be considered in the context of the emerging Publication Draft Local Plan. The Publication Draft Local Plan which currently sits with the Inspector must be able to demonstrate a 5 Year Housing Land Supply in order for it to be found sound and adopted. Unlike the current methodology for calculating 5 year supply which takes account of housing undersupply in the standard methodology formula, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years. This will result in a higher 5 year supply requirement.

The Government's policy objective of significantly boosting the supply of homes as highlighted in Paragraph 59 of the NPPF is an important material consideration in this case, however this in itself is not considered to be sufficient to outweigh the conflict with the Adopted Development Plan as identified above. In contrast, the above factor in relation to the Publication Draft Local Plan is considered to be an important material consideration, which in Officers view, justify attributing only 'more than moderate but less than significant' weight to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy).

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).

As set out earlier in the report, the proposal seeks to provide up to 43 affordable housing units, which equates to 50% of the dwellings proposed and is in excess of the policy requirement of Policy CS2 (30%). It is therefore considered that this level of affordable housing provision is afforded significant weight and is a substantial benefit of the scheme. The total number of houses would contribute to the Council's housing supply. As outlined earlier in this report the applicant intends to secure Homes England funding to enable a further 40% of the dwellings to be affordable (if planning permission is granted), however as the LPA are not able to formally require this, no weight is attributed to the potential delivery of additional affordable housing provision (over and above policy requirements) and the benefits arising from this.

It is also recognised that there would be some economic benefits during the construction process and after the occupation of the dwellings through residents using local facilities. These benefits are applicable to housing development generally and given the scale of the development these benefits should only be given limited to moderate weight.

In terms of the environmental objective, as set out earlier in the report it is considered that the proposal would result in an unnatural extension of the existing built form of Bocking into the open countryside, harmful to the rural character of this entrance in the Town of Braintree. Further harm would be caused by the insufficient information provided in relation to contaminated land and without this information the LPA are not satisfied that the site is suitable to be used for residential development without causing long term harm to potential residents and the wider environment. Additional harm would be caused by the inability of the site to successfully accommodate up to 86 within Flood Zone 1, with the appropriate level of private garden space and in a form that would be acceptable in this edge of settlement location. As the number of dwellings would have to be reduced to ensure a suitable development, in layout terms only, this would reduce the benefits flowing from the scheme.

Paragraph 196 of the NPPF states that where a development proposal will lead to a less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In this case, as set out earlier in this report, it is concluded that the public benefits of the proposal would not outweigh the less than substantial harm that would be caused to the nearby listed buildings and the Conservation Area.

When considering the planning balance and having regard to the benefits as identified above, and having regard to the requirements of the NPPF as a whole, the environmental harms and the harm to the heritage assets identified above and the current conflict with the Development Plan would outweigh the benefits and the resulting planning balance falls in favour of refusing planning permission.

Notwithstanding the above, even if applying the 'tilted' balance in favour of sustainable development, the Officer recommendation as set out above would not differ.

## RECOMMENDATION

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

- 1        The application site is located to the west of the Bocking Conservation Area and is considered to be within the setting of a number of designated and non-designated heritage assets. The Local Planning Authority has a duty under Section 66(1) of the Listed Buildings & Conservation Areas Act 1990 to have special regard to the desirability of preserving the setting or any features of special architectural or historical interest which the Listed buildings possess. The Local Planning Authority also has a duty under Section 72(1) of the same Act to pay special attention to the desirability of preserving or enhancing the character or appearance of any buildings or other land in a Conservation Area. Policy CS9 of the Adopted Core Strategy and Policies RLP 90, RLP95 and RLP100 of the Adopted Local Plan Review and the National Planning Policy Framework support these statutory duties and regimes.

The proposed location, scale and density of development would alter the western approach into the Conservation Area and alter the settings of nearby listed buildings, resulting in harm to the significance of designated and non-designated heritage assets, with the harm being categorised as being less than substantial, with reference to NPPF Paragraph 196.

Having regard to the guidance in Paragraphs 193 - 197 of the National Planning Policy Framework, the Local Planning Authority has considered the public benefits associated with the development but concludes that these would not outweigh the harm caused to the significance of designated heritage assets and non-designated heritage assets would conflict with the statutory duties, national guidance and Local Plan policies outlined above.

- 2        The application site lies outside the Town Boundary of Braintree and has a low to medium capacity to accommodate development as set out in the Braintree District Settlement Fringes Evaluation of Landscape Analysis Study of Braintree and environs 2015. The proposal would introduce a sizeable new development to an area of open countryside and would result in an unnatural extension to the neighbouring settlement of Bocking. The location of the site and topography of the land are such that any development on this site would have a harmful impact upon the rural character and appearance of the area.

It is therefore considered that the proposal fails to take account of the function the site serves in landscape terms and would significantly harm the intrinsic character and beauty of the countryside resulting in landscape and visual effects from a number of publicly accessible viewpoints and failing to perform the environmental role of sustainability, contrary to the principles and guidance set out in the NPPF, Policies RLP2 and RLP80 of the Adopted Local Plan, Policies CS5 and CS8 of the Adopted Core Strategy and Policy LLP71 of the Draft Local Plan and the guidelines set out within the Braintree District Settlement Fringes Evaluation of Landscape Analysis Study of Braintree and environs (2015).

- 3 The site is not capable of satisfactorily accommodating up to 86 dwellings and would result in a development which is urban in character, unrelated to its context and generally failing to secure a high standard of design or good level of amenity for future occupiers contrary to the NPPF, Policy RLP90 of the Adopted Local Plan, Policy CS9 of the Adopted Core Strategy and Policy LPP55 of the Draft Local Plan.
- 4 The Local Planning Authority is not satisfied that the site is suitable for residential purposes given the presence of existing contaminated material on the site. Furthermore, insufficient information has been provided by the applicant with this regards. Therefore proposal is therefore conflicts with Policy RLP64 of the Adopted Local Plan, Policy LPP73 of the Draft Local Plan and the NPPF.
- 5 The proposed development would trigger the requirement for:
  - The delivery of 30% affordable housing on site; (however the applicant is proposing 50%)
  - A financial contribution towards early years and childcare and primary education;
  - The provision, maintenance and delivery of public open space, outdoor sports and allotments;
  - Financial contribution towards off-site management measures for the Blackwater Estuary SPA and Ramsar site.

These requirements would need to be secured through a S106 Agreement. At the time of issuing this decision a S106 Agreement had not been prepared or completed. As such the proposal is contrary to Policies CS2, CS10 and CS11 of the Adopted Core Strategy and the Open Space Supplementary Planning Document (SPD).

### SUBMITTED PLANS

Location Plan	Plan Ref: 001.00
Drainage Plan	Plan Ref: 1209/DRA/001
Access Details	Plan Ref: 1209/HWY/003
Site Masterplan	Plan Ref: 200.01
Parking Strategy	Plan Ref: 201.00
Street elevation	Plan Ref: 202.00
Topographical Survey	Plan Ref: GTB1/3
Topographical Survey	Plan Ref: 203.00

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

PART A

AGENDA ITEM NUMBER 5c

APPLICATION NO: 19/01803/FUL  
APPLICANT: C/O Agent

DATE: 02.10.19  
VALID:

AGENT: Mrs Jennifer Carroll

Coval Hall, Chelmsford, CM1 2QF

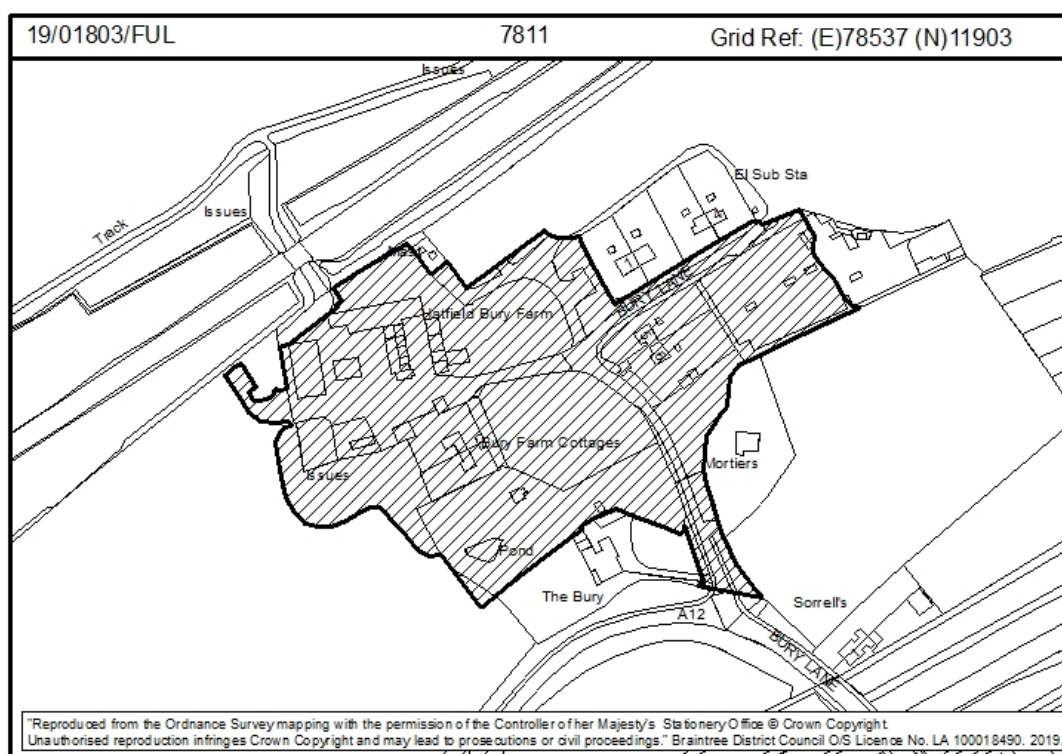
DESCRIPTION: Demolition of existing farm building and 4 no. houses and erection of 50 no. dwellings with associated parking, landscaping, estate roads, public open-space, associated external works and access from Bury Lane

LOCATION: Hatfield Bury Farm, Bury Lane, Hatfield Peverel, Essex, CM3 2DG

For more information about this Application please contact:

Lisa Page on:- 01376 551414 Ext.

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=PYR5XKBFIR800>

## SITE HISTORY

00/01632/TEL	Proposed installation of 2 dual polar antennas, 2 dishes and a new equipment cabin	Permission not Required	11.10.00
01/00914/TEL	Extension of a vodafone equipment cabin to 3x2.5x3 metres	Permission not Required	27.06.01
01/00915/TEL	Replacement of BT cellnet equipment cabinet with a BT cellnet UTMS cabin 3.7x2.5x3 metres	Permission not Required	27.06.01
96/01438/TEL	Erection of 15m lattice tower with antennas and associated equipment cabin	Permission not Required	24.12.96
97/00808/FUL	Increase height of mast from 15m to 20m to accommodate telecommunication equipment	Granted	11.08.97
99/01104/TEL	Proposed GSM 900 equipment up-grade to existing radio site	Permission not Required	13.08.99
17/00341/OUT	Application for outline planning permission, with all matters reserved with the exception of access, for the erection of up to 46 dwellings (Use Class C3), public open space, vehicular access and associated infrastructure.	Granted with S106 Agreement	18.04.18

## POLICY CONSIDERATIONS

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

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



2017. The Publication Draft Local Plan was submitted to the Secretary of State on the 9<sup>th</sup> October 2017.

The Publication Draft Local Plan is currently the subject of an examination by an Inspector appointed by the Secretary of State for Housing, Communities and Local Government.

The joint North Essex-Authorities (NEAs) have received a post hearing letter dated 8<sup>th</sup> June 2018. This letter outlined a number of shortcomings about the Garden Communities in the Section 1 Plan relating to transport infrastructure, employment, viability, and the sustainability appraisal.

The letter has outlined 3 options for how to proceed with the Section 1 Publication Draft Local Plan.

- Option 1 – Remove the Garden Communities proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time.
- Option 2 – The NEAs carry out further work on evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2 examinations. This option would result in the suspension of the examination, and the part 2 examination could not take place.
- Option 3 – Withdraw Section 1 and Section 2 of the Plans from examination and to resubmit them with any necessary revisions, after carrying out required further work on the evidence base and Sustainability Appraisal, and the relevant consultation and other procedures required by legislation.

A further Supplementary Post-hearing letter dated 27<sup>th</sup> June has also been received. This letter provided the Inspectors views on policy SP3 of the Section 1 Plan which covers housing requirements. The letter concludes that the housing requirement figures for each of the NEAs set out in policy SP3 is its respective objectively-assessed housing need, which for Braintree is 716 dwellings per annum.

The North Essex Authorities have agreed to produce further evidence to present to the Planning Inspector on the section 1 Local Plan. The authorities will need to agree with the Planning Inspector a timetable for the completion of this work, but this will result in a delay to the adoption of the Local Plan.

In accordance with paragraph 48 of the NPPF, from the day of publication the Council can give weight to the emerging Draft Local Plan and the weight that can be given is related to:

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

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

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

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

It should also be noted that the Council was previously working on a Site Allocation and Development Management Plan (the ADMP). This plan was subject to extensive public consultation in 2013 and 2014. The ADMP was not however submitted to the Planning Inspectorate, due to the decision to begin work on a new Local Plan, to take into account the most up to date Government guidance. However parts of the ADMP have been rolled forward into the Draft Local Plan. It is therefore considered that it would be consistent with the provisions in paragraph 48 of the NPPF, to afford more weight in decision making to the parts of the Draft Local Plan which have been rolled forward from the ADMP, due to the more advanced stage reached by those elements.

#### National Planning Guidance

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

#### Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP7	Housing and Mixed Use Sites
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP22	Accessible Housing and Lifetime Housing
RLP38	Conversion of Rural Buildings
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP52	Public Transport
RLP53	Generators of Travel Demand
RLP54	Transport Assessments
RLP55	Travel Plans
RLP56	Vehicle Parking
RLP63	Air Quality
RLP64	Contaminated Land
RLP65	External Lighting
RLP67	Flood Risk in Undeveloped Areas
RLP69	Sustainable Urban Drainage
RLP70	Water Efficiency

RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP74	Provision of Space for Recycling
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility
RLP93	Public Realm
RLP94	Public Art
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring
RLP138	Provision of Open Space in New Housing Developments

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

CS1	Housing Provision and Delivery
CS2	Affordable Housing
CS5	The Countryside
CS7	Promoting Accessibility for All
CS8	Natural Environment and Biodiversity
CS9	Built and Historic Environment
CS10	Provision for Open Space, Sport and Recreation
CS11	Infrastructure Services and Facilities

#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
LPP1	Development Boundaries
LPP19	Strategic Growth Location - Land East of Broad Road, Braintree
SP2	Spatial Strategy for North Essex
LPP31	Comprehensive Redevelopment Area - Land between A12 and GEM, Hatfield Peverel
SP3	Meeting Housing Needs
LPP33	Affordable Housing
SP4	Providing for Employment and Retail
LPP37	Housing Type and Density
SP5	Infrastructure & Connectivity
LPP44	Sustainable Transport
SP6	Place Shaping Principles
LPP45	Parking Provision
LPP49	Broadband
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP52	Health and Wellbeing Impact Assessment
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development
LPP63	Archaeological Evaluation, Excavation and Recording
LPP67	Natural Environment and Green Infrastructure

LPP69	Tree Protection
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP74	Climate Change
LPP75	Energy Efficiency
LPP77	Renewable Energy within New Developments
LPP78	Flooding Risk and Surface Water Drainage
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting

### NEIGHBOURHOOD PLAN

Hatfield Peverel's Neighbourhood Area was designated in March 2015. The draft Neighbourhood Plan was subject to the required public consultation and review and the referendum was passed on the 28th November 2019.

Following being reported to Full Council on the 16th December 2019 this is now fully adopted.

Relevant policies in the Neighbourhood Plan:

- ECN2 Working from Home
- ECN3 Broadband and Mobile Connectivity
- ECN5 Public Realm
- HPE2 Natural Environment & Biodiversity
- HPE6 Protection of Landscape Setting
- HPE7 Flooding and SuDS
- FI1 Transport and Access
- FI2 Parking
- FI3 Education and Health Infrastructure
- FI5 Developer Contribution
- HO1 Design of New Developments
- HO4 Minimum Garden Sizes

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

This application is being reported to the Planning Committee in accordance with the Council's scheme of delegation as the application is considered to be of significant public interest.

### SITE HISTORY – BACKGROUND TO CURRENT APPLICATION

An outline planning application with all matters reserved other than a strategic access point onto the public highway for up to 46 dwellings (Use Class C3),

public open space, vehicular access and associated infrastructure (application reference 17/00341/OUT), was granted outline planning permission on 18 April 2018, subject to conditions and planning obligations set out in a S106 Legal Agreement.

## SITE DESCRIPTION

The application site of approximately 2.7 hectares in area, is located immediately adjacent to the northern edge of the village development boundary of Hatfield Peverel. The site contains 4 residential dwellings and associated curtilages and a small paddock which is classed as agricultural land. Bury Farm itself consists of a complex of farm buildings which are located in the north-eastern area of the site and currently appear vacant. A small paddock sits centrally within the site with two existing dwellings located immediately to the west and a further two located to the east with associated curtilage.

The application site is bounded to the north partly by the mainline railway, partly by the former Arla Dairy site (which has a resolution to grant permission for up to 145 dwellings under 16/02096/OUT, 18/01650/VAR and 19/00494/REM) and partly by 4 existing dwellings on Bury Lane. To the west lies further countryside and to the south the A12 slip road beyond an existing dwelling (The Bury). To the east the site is bounded by a further existing dwelling (Mortiers), agricultural land and the former Arla Dairy site.

Vehicular access is obtained from Bury Lane on the southern boundary of the site.

In terms of gradient, the site as a whole has a modest fall of approximately 7.5 metres from east to north-west.

## PROPOSAL

This application seeks full permission for the erection of 50 new residential units (a net gain of 46 dwellings taking into account the 4 existing dwellings which are being demolished and replaced), associated infrastructure and landscaping. The site would be accessed by a singular vehicular access point into the site from Bury Lane (as originally proposed within the outline planning permission).

It is proposed that the development would consist of a mixture of properties with terrace, detached and semi-detached dwellings, including 4 maisonettes (contained within 2 separate buildings). The development is entirely of a two storey scale. The site would provide for 4 x 1 bed units, 13 x 2 bed units, 13 x 3 bed units and 20 x 4 bed units. 40% of the units would be affordable, which equates to 18 units.

The development would provide for a range of allocated and visitor parking. Open space is provided at two areas across the site, within a central area, (which also contains the SUDs system) and a further area to the north-east of the site which formed the open space on the adjacent 'Arla Dairy site' also

being developed for residential. The linkages with the Arla Dairy Site are via a proposed pedestrian and cycle link only.

The application has been advertised as a departure from the Council's Adopted Development Plan.

## CONSULTATIONS

### ECC Education

In regards to Early Years and Childcare they comment that data shows that there is sufficient provision within the ward to meet the demand created from this proposal and therefore a contribution is not required at this time. In regards to Primary Education an additional 13.8 primary places would be required at a cost of £210,878. A new school site on the Lodge Farm development has been secured and this would be within walking distance.

In respect of secondary provision, the closest school is the Maltings Academy in Witham which, along with the New Rickstones Academy, forms part of Braintree Secondary School Planning Group 2. An additional 9.2 places would be provided at an estimated total cost of £213,569 to mitigate its impact on local provision.

### Highways England

Recommend that conditions should be attached to any planning permission that may be granted to require highway improvements (signs and slow marking) to the A12 slip road to be undertaken.

### ECC Highways

Comment that the impact of the proposal is acceptable to the Highway Authority subject to securing a Construction Management Plan; Improvements to the Bury Lane/A12/B1137 junction; Upgrading of the two bus stops which would best serve the proposal site; the implementation of a Residential Travel Information Pack per dwelling and; a restriction that there shall only be cycle and pedestrian (no vehicular) connections between the proposal site and land immediately to the north-east and south-east.

### Historic Buildings Consultant

Comment that the site contains a number of nineteenth century agricultural units, twentieth century workers' houses and a substantial barn range, which may date from the eighteenth century, in the north west of the site. None of the units are listed but are considered non-designated heritage assets, providing a good example of a late nineteenth century farmstead, with earlier elements.

The development results in the demolition of all existing structures on the site, which should be classed as substantial harm to the non-designated heritage assets, meaning section 197 of the NPPF is relevant to this application.

Consideration should be given to section 198 and 199, to ensure that the loss of the non-designated heritage assets is outweighed by the benefits of the proposed development.

Ideally, the opportunity would be taken to convert or re-use the farmstead, retaining the barn, nineteenth century buildings and the layout of the existing complex. Existing structures could be incorporated as either dwellings or ancillary units, bin or cycle stores for example. However, as this application appears to be in the final stages of development, recommend a thorough building recording exercise is undertaken, to ensure an accurate record of the site is created.

#### ECC Historic Environment

Recommend a condition for Historic building recording and Archaeological evaluation.

#### ECC SUDS – Lead Local Flood Authority

No objection subject to conditions to secure: a detailed surface water drainage scheme; a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works; a Maintenance Plan detailing the maintenance arrangements for different elements of the surface water drainage system; and a requirement to maintain yearly logs of maintenance.

#### NHS

The development will have an impact on 1 GP Practice branch surgery operating within the vicinity of the application site and the wider health system of mid Essex. A contribution of £17,342 would form a proportion of the required funding towards replacement diagnostic equipment at Broomfield or Braintree Hospital for the benefit of the local community, including the residents of this proposed development.

#### Natural England

Comment that the site falls within the 'Zone of Influence' (ZoI) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The scale of 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.

Under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this area and of this scale 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.

We therefore advise consideration as to whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

#### Essex Police

Comment that designs and layouts shall promote a safe and secure environment, crime reduction and prevention and shall encourage the related objective of enhancing personal safety. Welcome the opportunity to consult on this development to assist the developer with pre-planning consultation.

#### Anglian Water

Comment that the catchment for foul drainage and sewerage system has capacity. State that the preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option.

#### BDC Environmental Health

Raise objections in regards to the Noise/Overheating Assessment and comment that whilst it is appreciated that the overheating criteria is an indicator rather than a regulatory indicator, the CIBSE TM59 is currently the only guidance criteria that is available. It is clear that habitable rooms would be exposed to levels above the BS8233 internal noise standards where overheating conditions exist and windows need to be opened. Environmental Health may only conclude that mechanical cooling is the only option for the design which will satisfy both criteria although any mechanical ventilation or cooling systems may introduce further noise both internal and external to the residential property. The applicant is reluctant to recommend mechanical cooling as it is not sustainable and running costs to occupiers may be high. Whilst Environmental Health recognises that mechanical cooling does not provide a sustainable option Environmental Health is not willing to compromise on the requirement to meet BS8233 noise level standards and therefore must object to the application. Conclude that it therefore remains that occupiers are presented with the dilemma of overheating (at certain times of the year) or elevated noise levels.

No objections in regards to the conclusions of the Contaminated Land Report. Recommend a number of Conditions be imposed on any decision to grant, relating to contaminated land, dust and mud control, burning, piling and noise and hours of construction working.



### BDC Ecology

Comment that sufficient information is submitted for designated sites, protected and priority species. Recommend a number of conditions be imposed to secure the mitigation measures contained in the Ecological Impact Assessment (subject to additional surveys being undertaken if development does not commence within two years) and to secure a copy of the EPS Licence for bats.

### BDC Housing Enabling Officer

Comment that the proposed affordable units and tenure mixes are considered appropriate to match housing need evidence and note that the affordable units will be built to be compliant with accessibility standards (Building Regulations Part M(2)).

### PARISH / TOWN COUNCIL

Hatfield Peverel Town Council have responded with 'no comments' on the application.

### REPRESENTATIONS

The application was advertised by way of newspaper advertisement, site notice and neighbour notification. Representations (objections) have been received from 2 residential properties raising the following comments:

- No analysis of cumulative traffic impact on Hatfield Peverel of the numerous developments. Adverse impact on life within the village with increased traffic, especially to use the railway station;
- No parking restrictions on Bury Lane, so commuters park there. Development will increase this with new footpath;
- Workmen parking on Bury Lane obstructing traffic egressing the A12 and residents accessing their properties;
- Traffic flow from The Street into Bury Lane needs to be addressed;

### REPORT

#### Principle of Development

As set out in Paragraph 7 of the NPPF, the purpose of the planning system is to contribute to 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 should be proactive in guiding development towards sustainable solutions, taking local circumstances into

account, to reflect the character, needs and opportunities of each area. 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 improve applications for sustainable development where possible.

Paragraph 12 of the NPPF sets out the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point of 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 boosting the supply of homes. In this regard, Paragraph 59 of the NPPF highlights the importance of ensuring that there is a sufficient amount and variety of land that can come forward where it is needed, that specific housing requirements are met, and that land with permission is developed without unnecessary delay. Paragraph 73 of the NPPF outlines that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against (in the case of Braintree District Council) 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 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) and the Braintree District Core Strategy (2011).

The application site is located outside of the Village Development Boundary of Hatfield Peverel. On this basis, the principle of development would be contrary to Policy. However, the principle of development has already been established by the outline consent (Application Reference 17/00341/OUT) issued on 18 April 2018, which represents a fall-back position which should be attributed substantial weight. Further, the new Draft Local Plan proposes to allocate the site, as part of a slightly larger site, for residential development within Policy LPP31 which covers a wider comprehensive redevelopment area on land between the A12 and the Great Eastern Mainline and includes the adjacent Arla Dairy site.

### Hatfield Peverel Neighbourhood Plan

As detailed above, following being reported to Full Council on the 16th December 2019 this is now fully adopted.

The site is not allocated in the Neighbourhood Plan. The Local Plan has allocated Arla Dairy and this is sufficient to meet housing needs to the Neighbourhood Plan.

### 5 Year Housing Land Supply

A material consideration in this case, is the Council's current housing land supply position. In July 2018 the Government published the new National Planning Policy Framework 2018 (NPPF2) which was subsequently revised in February 2019 (NPPF3). These revisions to national policy changed the basis of how the 5 year housing land supply is calculated. The Council is bound to take into account this revised version of national policy by s.70(2)(C) Town and Country Planning Act 1990.

For decision making purposes, as Braintree District Council does not have an up to date Local Plan, the Council is currently required to calculate supply using the Government's Standard Methodology, until such time as the new Local Plan is adopted.

The Council has recently received decisions from the Secretary of State in relation to the Brook Green appeal and the 'Call In' applications in Hatfield Peverel (Land South of Stonepath Drive and Gleneagles Way) in which the Secretary of State found that the supply position was 4.15 years supply. Having considered the evidence, the Secretary of State excluded 10 sites from the deliverable 5 year supply believing there was not clear evidence of deliverability as required by PPG. No justification or reasoning was provided in the decisions, but in excluding just the 10 sites from the supply, the Secretary of State has by default accepted the Council's evidence in respect all other sites.

The Council has reviewed the position in respect of the 10 sites which the Secretary of State did not include. The Secretary of State has not explained why these sites were considered to not meet the clear evidence test; the Council has requested the principles of this explanation, which is needed for interpreting evidence for current and future supply assessments of sites; but has been advised by the Case Work Unit that the information will not be provided.

Having reviewed the evidence, the Council has concluded that the 2018-2023 5 year supply position should be amended by the deletion of 3 sites on which there is not yet sufficient clear evidence of deliverability (Land rear of Halstead Road, Earls Colne; Land south of Maltings Lane, Witham; and Former Bowls Club site at Ivy Chimneys, Hatfield Road, Witham). The Council considers that the remaining 7 sites (Sudbury Road, Halstead; Inworth Road, Feering; Panfield Lane, Braintree; Monks Farm, Station Road, Kelvedon; Conrad Road, Witham; Ashen Road, Ridgewell; The Limes, Gosfield), meet the clear evidence requirement and as such should be included within the supply: all of these 7 sites are the subject of detailed planning applications from developers with confirmation from the developers that they will deliver completions before 2023; one of the sites is an adopted allocation with a hybrid application the

subject of a Resolution to Grant and one of the sites is even actively under construction; confirming the reasonableness of the Council's assessment.

Consequently, it is considered that the revised 5 year supply position for Braintree District for the period 2018-2023 is 5.15 years supply.

Although the Council considers that the supply indicated above represents a robust assessment of the Council's Housing Land Supply position, the Council's latest 5 year supply figure of 5.15 years, as at 6th August 2019 must be considered in the context of the emerging Publication Draft Local Plan. The Publication Draft Local Plan which currently sits with the Inspector must be able to demonstrate a 5 Year Housing Land Supply in order for it to be found sound and adopted. Unlike the current methodology for calculating 5 year supply which takes account of housing undersupply in the standard methodology formula, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years. This will result in a higher 5 year supply requirement.

Whilst the presumption in paragraph 11 of the NPPF is not engaged (due to the presence of a 5 Year Housing Land Supply), given the Local Plan context described above, it is considered that only 'more than moderate but less than significant weight' can be attached to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy).

This will need to be considered as part of the overall planning balance, along with any benefits and harms identified within the detailed site assessment considered below.

## 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'. Policy CS7 of the Adopted Core Strategy supports this and states that 'future development will be provided in accessible locations to reduce the need to travel'.

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

The development will undoubtedly bring economic benefits during the construction stage and thereafter with additional residents supporting the services and facilities within the town and locality. These factors weigh in favour of the proposal in the planning balance.

Socially, the site does provide an appropriate mix of housing types and policy compliant affordable housing. This is a matter which weighs in favour of the social sustainability of the site.

In terms of environmental sustainability, whilst this is not a brownfield site, the development does retain a maximum level of trees and hedgerow to be maintained and managed, whilst additional landscaping is proposed. The site also provides public open space for the benefits of future occupiers in addition to nearby local residents.

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

Although the site lies outside of the settlement boundary, it lies adjacent to the settlement boundary of Hatfield Peverel and is well connected to a range of services, facilities, leisure and employment opportunities within the town centre and locality. The village also enjoys good public transport facilities with the railway station on the main line from London to Chelmsford, Colchester and Ipswich. The Train Station can be accessed by pedestrians through the recently approved residential scheme to the north east (the Former Arla Foods, 145 new homes). The site is also close to bus stops on The Street served by routes to Colchester, Maldon and Chelmsford, providing access to the nearby larger towns and the secondary schools in Witham. This weighs heavily in favour of the proposal in the overall planning balance.

#### Layout, Scale and Appearance

The NPPF seeks a high quality design as a key aspect to achieving sustainable development. Further, Policy RLP90 of the Adopted Local Plan and Policy CS9 of the Adopted Core Strategy seek to ensure a high quality design and layout in all developments. At the national level, the NPPF is also clear in its assertion (Paragraph 124) that 'good design is a key aspect of sustainable development' and that (Paragraph 127) developments should 'function well and add to the overall character of the area... are visually attractive as a result of good architecture, layout and effective landscaping... (and should) establish or maintain a strong sense of place'.

The applicant proposes a development of 50 dwellings (an additional 46 accounting for the demolition/replacement of 4 existing dwellings). The design and layout has been the subject of extensive pre-application discussions between Officers and the applicant. Officers acknowledge the positive approach that the applicant has taken to addressing issues that Officers identified during the pre-application stage.

In regards to layout, the sole vehicular access to the development is taken from Bury Lane, which remains in the same location as approved under the previous outline planning consent. This internal spine road, routes into the centre of the site and further into the site is designed with a strong street scene character with the presence of dwellings fronting onto it and one of the central areas of open space. From this central road, the access then loops to either side providing to the west, a series of cul-de-sac streets, and to the east, the estate road provides pedestrian links to the adjoining sites, passing the existing houses at 1 to 4 Bury Lane and the proposed area of open space.

This fairly informal layout of development is considered to be sympathetic to the layout of both the developments being built out to the east, as well as to the wider character of Hatfield Peverel. Further, the layout of dwellings on the western / south-western boundaries being of a lower density and being orientated to front out onto the wider countryside, together with the new landscape buffer, will ensure that the development would respond to its rural setting at the edge of the settlement boundary and would create a new softer defined edge to the village.

In regards to open space, the proposals seek to create prominent public space areas, primarily with a new 'village green', located as a central space around the retained trees at the entrance. This is a well-placed area of public open space, which also contains the SUD's features and is an overprovision of the required amenity green space. The SUD's system is designed as a detention basin providing an appropriate SUDS system as well as usable attractive amenity space with a wide base and relatively shallow slopes that would not impact on the usability of the open space for recreational use. A further area of open space is provided with the an area of open space located to the eastern corner of the site, which will further link the development with the residential development being built out on Arla Dairy. Whilst this secondary area of open space has been scaled back in terms of the provision of works, the majority of the space was already assigned to the adjacent Arla Dairy site and the low key landscaping approach was considered acceptable within that application which remains the case. The layout and design of the development also provides for dwellings that face towards the public realm, which helps to develop the character of the site, avoiding blank elevations and creating spaces that are overlooked to provide natural surveillance.

The development consists of a mixture of detached, semi-detached and terraces (with 4 maisonettes provided in 2 buildings which externally are designed to appear as dwellings). The development is entirely of a 2 storey scale. This mix and scale of development is appropriate and in keeping with the character and appearance of the locality. The properties are well-designed and proportioned which contain appropriately detailed façades and architectural detailing with pitched roofs with projecting gables and porches to reflect the traditional vernacular in the locality. Materials are proposed with red and buff colouring of brickwork and roof tiles a mix of blue/black, terracotta and mixed russet tone. Some boarding is also present on site. Overall, this mix of materials would add to the quality of the development, ensuring it would be sympathetic to its context.

The development provides for 4 x 1 bed units, 13 x 2 bed units, 13 x 3 bed units, 20 x 4 bed, broken down as follows:-

Market Housing:

- 2 x 2 bed dwelling
- 10 x 3 bed dwelling
- 20 x 4 bed dwelling

Affordable Housing:

- 4 x 1 bed maisonettes
- 11 x 2 bed dwellings
- 3 x 3 bed dwellings

Officers are content that the proposal provides an appropriate mix of housing types to support a balanced and mixed community.

Heritage

There are a number of existing former agricultural buildings on the site. Although none are listed and the site is not located in a Conservation Area, several of the farm buildings are considered to be of some historical merit and would be classified as a non-designated heritage asset as they provide a good example of a late nineteenth century farmstead, with earlier elements.

Paragraph 197 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly affect such assets a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

As required by Paragraph 198 and 199, LPA's should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred. LPA's should further require developers to record and advance undertaking of the significance of any heritage assets to be lost.

In this instance all of the non-designated buildings would be demolished and therefore there would be a total loss. Although any loss of heritage is regrettable, this approach was accepted within the outline permission and further it does also allow a comprehensive redevelopment of the site to be achieved. A condition can be imposed to adequately record understanding of the significance of the heritage assets and for this evidence to be publically accessible.

### Residential Amenity for Future Occupiers

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'. This is reinforced by Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan which requires that there be no undue or unacceptable impact on the amenity of any nearby residential properties.

In terms of future occupiers, all dwellings are designed to Nationally Described Space Standards (NDSS) which provide minimum space and storage standards for dwellings to deliver high quality design and living spaces. Furthermore, in regards to garden sizes, all of the dwellings with three or more bedrooms are provided with 100sq.m or larger and all of the two bedroom units are provided with garden areas of a minimum of 50sq.m. In this respect, the development would provide for acceptable amenity for future occupiers and would be in accordance with the relevant policies within the Hatfield Peverel Neighbourhood Plan.

Given the sites location between the A12 and the mainline railway, the application has been submitted with a Noise Impact Assessment and an Overheating Assessment which have been subject to review by the Council's Environmental Health Officer.

In acknowledging these site constraints, the layout of the site has been designed to reduce noise impacts for future occupiers, in terms of orientation of dwellings and their gardens and use of appropriate boundary treatments. Further, a number of mitigation measures are proposed in terms of roofing and wall construction and glazing and ventilator specifications, (to be secured via condition). With these design measures it has minimised overheating risk as far as practically possible without the introduction of active cooling, which is not considered an appropriate solution. The risk is shown to be well within guidance levels as long as windows can be used to control the internal temperature.

The highest risk bedrooms are noted as the dwellings on the westernmost elevation, owing to their orientation. Although the highest risk of the assessed bedrooms, the simulations report temperatures >26°C for only 1.43% of annual sleeping hours (23.00-07.00), in the worst performing room. It is also noted that these 'worst performing' spaces, can still fully meet the guidance levels if mechanically ventilated. (It is demonstrated that if windows can be open throughout the day (when appropriate) all spaces can meet guidance levels without the use of mechanical ventilation systems). Should this not be deemed appropriate, the introduction of mechanical systems shall allow the windows to remain closed for the vast majority of hours, opening only to purge built-up heat in the evening and supplementing the mechanical ventilation during hot weather. The redesigned windows shall allow this purge to occur quickly, and windows to be closed again once the heat has dissipated from the space.



The consideration between the noise impact and overheating is a finely balanced matter. Although there is no planning policy with regards to overheating in the Adopted Local Plan, Paragraph 149 of the NPPF and emerging Local Planning Policy LPP74, requires developments to be adaptive to the impacts of Climate Change, including the need to reduce the risk of overheating in proposals, and more generally planning policy requires developments to be of a high quality and of good amenity.

In terms of air quality, this was a matter of full consideration on the outline submission, wherein the submitted Air Quality Report was reviewed. The Report demonstrates that in general terms air quality objective levels will not be exceeded and therefore no further concerns are raised. Equally, submitted reports demonstrate that the development would not be negatively impacted from vibration from the railway line and passing trains.

#### Impact Upon Neighbour Amenity

There are 2 pairs of existing semi-detached dwellings to the north-east of the site. These benefit from relatively large plots and due to the layout of the proposed development their amenity in terms of outlook and privacy would not be adversely impacted. Although there will be some increased vehicular movement, this will be limited. Further, there will be increased pedestrian movements due to the connections with the adjacent site, however, this would not be harmful to their amenity. The provision of formal open space sited opposite their dwelling was already secured on the adjacent Arla Dairy Site. It is of a scale and nature that would not harm their amenity from noise disturbance or similar but would be a provision of space that they could utilise.

Turning to other existing neighbouring dwellings, 'The Bury' to the South would have additional dwellings within a much closer proximity than as existing. However, the layout of the proposed development is such that it would not create an unacceptable impact to their outlook or result in overlooking or similar. The existing detached dwelling of 'Mortiers' to the east would not be unacceptably impacted from overlooking, outlook or similar, as the adjacent Plots of No. 1 and 8 are orientated and designed to ensure that there would be no adverse impact upon this neighbours amenity.

Further, the proposed development would have an acceptable relationship with the approved residential development to the sites north and eastern boundary, being built out by Countryside and Bellway and back to back distances would ensure that there would be no unacceptable impact in terms of overlooking or similar.

#### Affordable Housing

Policy CS2 of the Adopted Core Strategy requires on such a site, 40% affordable housing provision to be directly provided by the developer within new housing schemes. The application complies with this policy and provides for 18 affordable properties. The mix is as follows;

- 4 x 1 bed flat (1B-2P)
- 11 x 2 bed dwelling (2B-4P)
- 3 x 3 bed dwelling (3B-5P)

In terms of the tenure mix, 12 of the affordable units are to be affordable rented with the remaining 6 as shared ownership. The tenure mix has been a matter of discussion at pre-application stage in liaison with the Councils Housing Enabling Officer, and is acceptable in accordance with the NPPF. Further, the affordable units will be built to be compliant with accessibility standards (Building Regulations Part M(2)) which is a further positive aspect to the development.

The affordable housing is clustered towards the northern boundary of the site. This is considered acceptable given the scale of development.

### Landscape

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

The application is supported by A Landscape and Visual Appraisal, which provides a comprehensive assessment of the site and its visual context within the landscape setting. Similar to the outline application, Officers are content that due to the topography, adjoining built form, railway embankments and vegetation, the development of the site will have a negligible effect on surrounding visual receptors and character of the site with only a localised adverse effect to the immediate receptors, being to the existing residential properties.

As discussed above, the development has been designed with a landscape buffer to the newly create western boundary, which responds well to its rural setting at the edge of the settlement boundary and will create an appropriate newly defined edge to the village, and would strengthen the level of containment within the landscape. A condition is imposed to require that suitable and comprehensive planting is incorporated to this western boundary and across the site more generally.

### Ecology

Policy RLP80 of the Adopted Local Plan requires new development to include an assessment of its impact on wildlife and states that it should not be detrimental to the distinctive landscape features of the area. Policy RLP81 of the Adopted Local Plan encourages landowners to retain, maintain and plant native trees, hedges and woodlands and Policy RLP84 of the Adopted Local Plan states that planning permission will not be granted for development which would have an adverse impact upon protected species.

The planning application is accompanied by an Ecological Impact Assessment (September 2019). This notes that habitats of biodiversity value are considered to be hedgerows, mature trees, buildings supporting bats and nesting birds, and an existing pond. Ecological features of interest include roosts of five bat species, including common pipistrelle, soprano pipistrelle, brown long-eared bat, natterer's bat and barbastelle.

A summary of the impacts of the development to the above habitats of biodiversity and ecological features has been provided, together with proposed mitigation and enhancement measures. The Councils Ecologist has assessed the application and is content that there would be no unacceptable impact, subject to the imposition of conditions.

#### Habitat Regulations Assessment (HRA / RAMS)

The development lies within the 22km Zone of Influence (Zol) of the Essex Coast RAMS in terms of increased recreational disturbance to coastal European designated sites (Habitats sites), in particular the Blackwater Estuary SPA & Ramsar site.

Natural England published revised interim guidance on 16th August 2018 in connection with the emerging strategic approach relating to the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitat Regulations.

In accordance with the revised interim guidance an appropriate assessment has been completed for this application, as it falls within the threshold of a scheme of 99 residential units or less and is located within the updated Zones of Influence. Where an appropriate assessment concludes that a likely significant effect would occur, the Local Planning Authority is required to secure a financial contribution towards off site mitigation at the identified natura 2000 sites to mitigate the impact of the development upon these sites. In line with the Essex Coast RAMS Strategy a contribution of £122.30 per dwelling for delivery prior to occupation is to be secured via the S106 Legal Agreement.

#### Access and Highway Considerations

The application has been submitted with a Transport Statement and supporting documentation including drawings of refuse vehicle swept path analysis and fire tender swept path analysis.

In regards to trip generation, the planning application will provide the same net gain of housing units as the extant outline planning permission. Officers remain content that the level of traffic is unlikely to have a severe impact on the operation of the local highway network. Highways England recommend that conditions should be attached to any planning permission that may be granted to require highway improvements (mainly in terms of signs and slow marking) to

the A12 slip road to be undertaken. Updated plans have been submitted which incorporate the road safety markings and which can be secured via Condition.

In terms of highway considerations at the site itself, there is only one vehicular access from Bury Lane. This is in the same location as approved on the outline consent, and subject to a condition requiring visibility splays, this is acceptable. The internal highway layout has been designed in an appropriate manner, complying with current design standards and allowing acceptable access for refuse collection, emergency access and similar. All the internal roads within the site with the exception of the shared private drives are to be offered to ECC Highways for adoption. The Highway Authority have further requested a number of highway works relating to the upgrading of bus stops within the vicinity of the development. These can be secured via the S106 legal agreement and are requested in the interests of highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport.

In regards to parking, both the surface level parking and garage dimensions are in accordance with the Essex Parking Standards: Design and Good Practice Document, September 2009. Parking for each dwelling would be provided in accordance with the Council's adopted Parking Standards (2009) which requires 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.

A total of 122 spaces including visitor spaces are provided for 50 dwellings. The majority of the dwellings have parking on plot provided in garaging and on driveways. Other forms of parking is included within parking courts adjacent to dwellings within a shared surface. A number of dwellings are provided with an additional on-plot parking space for a visitor, (and therefore their provision for a 0.25 visitor parking space has been removed from the total unallocated visitor space requirements). The breakdown of spaces is 109 spaces on-plot and 13 visitor parking spaces.

The scheme also provides for a total of 98 cycle parking spaces, with 1 space per apartment and 2 spaces per house accommodated within their garage or shed. This is in accordance with adopted standards and will assist with the sustainability credentials of the site. Further in this regard, the scheme provides for improved pedestrian movements, with the links to the recently approved residential scheme to the north east (Former Arla Dairy), which creates a connection to the railway station and the centre of the village.

#### Flood Risk and Surface Water Drainage

The application site is located within Flood Zone 1 (low probability risk of flooding). The applicant has submitted a preliminary Surface Water Drainage Strategy and a Flood Risk Assessment in support of their application which indicates that the risk of fluvial, tidal and groundwater flooding is low. The Strategy proposes management of surface water run-off from the development through the use of sustainable drainage techniques. The surface water network will collect all surface water run-off from the highways, private drives and roofs

of the garages and houses being collected initially by a piped system before flowing to the SUDS element of the strategy. At the eastern point of the site, water will flow into the centrally located surface water pond. The remainder of the site will be collected within a piped system and will drain to a swale located on the western boundary of the site.

The Lead Local Flood Authority (Essex County Council) are content that the Strategy and FRA and is acceptable subject to conditions relating to a detailed surface water drainage scheme; a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works; a Maintenance Plan detailing the maintenance arrangements for different elements of the surface water drainage system; and a requirement for the maintain of yearly logs of maintenance.

The proposal is therefore considered to accord with the NPPF and Policy CS8 of the Adopted Core Strategy in so far as it relates to the matters of flooding and surface water drainage.

## PLANNING OBLIGATIONS

### Open Space

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

Policies CS10 and CS11 of the Adopted Core Strategy indicates that a financial contribution will be required to ensure that infrastructure services and facilities required to provide for the future needs of the community including, inter alia, open space, sport and recreation provision are delivered.

Open Space in Braintree District is calculated in accordance with the standards set out in the Open Spaces SPD and the Core Strategy. A development of this size would be expected to make provision for equipped children's play areas and informal and casual open space on site with a financial contribution towards the provision of offsite outdoor sports facilities and allotments. With regard to on-site provision, the development provides informal open space, but no equipped children's play areas. A contribution of £32,559 to improvements of existing equipped children's play areas will therefore need to be secured.

Further, due to the scale of this development, there would not be a requirement for provision for formal sports or allotments on the site, but instead these aspects could be secured via financial contribution to identified schemes in Hatfield Peverel. The required contribution for Outdoor Sports Contribution is

£48,476.74 and £1538.36 for a Contribution for Allotments. The developer has agreed to meet with this contribution.

### Affordable

Policy CS2 of the Adopted Core Strategy requires on such a site, 40% affordable housing provision to be directly provided by the developer within new housing schemes. The application complies with this policy and provides for 18 affordable properties. The mix provides 4 x 1 bed flat (1B-2P), 11 x 2 bed dwelling (2B-4P) and 3 x 3 bed dwelling (3B-5P). In terms of the tenure mix, 12 of the affordable units are to be affordable rented with the remaining 6 as shared ownership.

### Education and Healthcare

The development would generate a financial contribution of £210,878 for primary education (A new school site on the Lodge Farm development has been secured and this would be within walking distance of the above proposal). In respect of secondary provision, a financial contribution of £213,569 (The closest school is the Maltings Academy in Witham which, along with the New Rickstones Academy, forms part of Braintree Secondary School Planning Group 2). There are currently some discussions with the developer in terms of this contribution and Members will be updated on this matter at Committee.

The NHS financial contribution equates to £17,342 and would form a proportion of the required funding towards replacement diagnostic equipment at Broomfield or Braintree Hospital for the benefit of the local community, including the residents of this proposed development. The developer has agreed to meet with this contribution.

### Transport and Highways

The Highways Authority raised no objections to the proposal but recommend that a number of items be secured on any grant of consent. Matters which are to be secured via the S106 include:

- Upgrade to current Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development);
- Residential Travel Information Packs in accordance with Essex County Council guidance.

### Habitat Regulations Assessment (HRA / RAMS)

Matters to be secured via the S106 Legal Agreement include a financial contribution towards offsite visitor management measures for the Blackwater Estuary SPA & Ramsar site, (£122.30 per dwelling) for delivery prior to occupation. The developer has agreed to meet with this contribution.

## 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 town development boundary and is therefore contrary to the provisions of the Adopted Development Plan. However, outline consent for residential development has been granted outline consent, and as such the principle of development has therefore been established. This represents an established fall-back position which should be given substantial weight.

Although the Council considers that the supply indicated above represents a robust assessment of the Council's Housing Land Supply position, the Council's latest 5 year supply figure of 5.15 years, as at 6th August 2019 must be considered in the context of the emerging Publication Draft Local Plan. The Publication Draft Local Plan which currently sits with the Inspector must be able to demonstrate a 5 Year Housing Land Supply in order for it to be found sound and adopted. Unlike the current methodology for calculating 5 year supply which takes account of housing undersupply in the standard methodology formula, the methodology for calculating 5 year supply under a new Local Plan must add on the backlog from previous years. This results in a higher 5 year supply requirement.

The Government's policy objective of significantly boosting the supply of homes as highlighted in Paragraph 59 of the NPPF is an important material consideration in this case, however this in itself is not considered to be sufficient to outweigh the conflict with the Adopted Development Plan as identified above. In contrast, the above factor in relation to the Publication Draft Local Plan is considered to be important material consideration, which in Officers view, justify attributing only 'more than moderate but less than significant' weight to the policies of the Development Plan which restrict the supply of housing (specifically Policy RLP2 of the Adopted Local Plan and Policy CS5 of the Adopted Core Strategy).

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).

As outlined within this report, the development will undoubtedly bring economic benefits during the construction stage and thereafter with spending powers from additional residents supporting the services and facilities within the town and wider locality. These factors weigh in favour of the proposal in the planning balance. Socially, the development provides an appropriate mix of housing types with policy compliant provision of affordable housing which supports social sustainability. However, there is a balance to be struck between noise and overheating, and this is a matter which does lessen the weight assigned to the social benefits. In terms of environmental sustainability, the development retains a maximum level of trees and hedgerow, whilst additional landscaping is proposed. The site also provides public open space for the benefits of future occupiers in addition to nearby local residents. Further in regards to sustainability, although the site lies outside of the settlement boundary, it lies adjacent to it being well connected to a range of services, facilities, leisure and employment opportunities within the town centre and locality. The site would also be accessible to other means of public transport. The siting on the edge of the settlement weighs heavily in favour of the proposal in the overall planning balance.

When considering the planning balance and having regard to the requirements of the NPPF as a whole, it is concluded that the proposed development would result in a high quality residential development and it is recommended that planning permission be granted.

Notwithstanding the above, even if applying the 'tilted' balance in favour of sustainable development, the recommendation as set out above would not differ.

## **RECOMMENDATION**

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

- **Affordable Housing:** On site provision of 40% affordable housing. A total of 18 affordable properties as 4 x 1 bed flat (1B-2P), 11 x 2 bed dwelling (2B-4P) and 3 x 3 bed dwelling (3B-5P). In terms of the tenure mix, 12 of the affordable units are to be affordable rented and 6 shared ownership.
- **Public Open Space:** On site provision of public open space. Management Company be appointed for the maintenance of the proposed open space. Financial contribution of £32,559 towards equipped play; £48,476.74 towards Outdoor Sports Contribution and £1538.36 towards Allotments.



- **Highways:** The provision of improvements to the Bury Lane/A12/B1137 junction; Upgrade of two bus stops which would best serve the proposal site; Residential Travel Information Packs.
- **Education:** Financial contributions of £210,878 for Primary Education and £213,569 for secondary education.
- **NHS:** Financial contributions of £17,342 towards the replacement diagnostic equipment at Broomfield or Braintree Hospital.
- **HRA/RAMS:** A financial contribution of £5625.80 towards off-site visitor management measures for the Blackwater Estuary SPA & Ramsar site.

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

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

### 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 Elevations and Floor Plans BW203-GR-01	Plan Ref:
Location Plan	Plan Ref: BW203B PL-01
Cycle Plan	Plan Ref: BW203B PL-02
Street elevation	Plan Ref: BW203B ST-01
Proposed Elevations and Floor Plans BW203B-CP-01	Plan Ref:
Proposed Elevations and Floor Plans BW203B-GR-02	Plan Ref:
Proposed Elevations and Floor Plans BW203B-GR-03	Plan Ref:
Proposed Elevations and Floor Plans BW203B-HT-01-JO	Plan Ref:
Proposed Elevations and Floor Plans BW203B-HT-02-CH	Plan Ref:
Proposed Elevations and Floor Plans BW203B-HT-03-QU	Plan Ref:
Proposed Elevations and Floor Plans BW203B-HT-04-QU-SP1	Plan Ref:

Proposed Elevations and Floor Plans BW203B-HT-05-CA	Plan Ref:	
Proposed Elevations and Floor Plans BW203B-HT-06-MI	Plan Ref:	
Proposed Elevations and Floor Plans BW203B-HT-07-BO	Plan Ref:	
Proposed Elevations and Floor Plans BW203B-HT-08-GO	Plan Ref:	
Floor Plan	Plan Ref: BW203B-HT-09-JE1	
Elevations	Plan Ref: BW203B-HT-10-JE2	
Floor Plan	Plan Ref: BW203B-HT-11-JE1	
Elevations	Plan Ref: BW203B-HT-12-JE2	
Floor Plan	Plan Ref: BW203B-HT-13-JE1	
Elevations	Plan Ref: BW203B-HT-14-JE2	
Floor Plan	Plan Ref: BW203B-HT-15-HA50	
Proposed Elevations and Floor Plans BW203B-HT-16-BA	Plan Ref:	
Proposed Elevations and Floor Plans BW203B-HT-17-TI	Plan Ref:	
Proposed Floor Plan	Plan Ref: BW203B-HT-18-HB1	
Proposed Elevations	Plan Ref: BW203B-HT-19-HB2	
Drainage Plan	Plan Ref: 19-024-011	Version: D
Drainage Plan	Plan Ref: 19-024-012	Version: B
Levels	Plan Ref: 19-024-013	Version: B
Refuse Information	Plan Ref: 19-024-015	Version: C
Fire Strategy Plan	Plan Ref: 19-024-016	Version: C
Highway Plan	Plan Ref: 19-024-19	Version: B
Parking Strategy	Plan Ref: BW203B-PL-06	Version: E
Garden Study	Plan Ref: BW203B-PL-07	Version: E
Materials Details	Plan Ref: BW203B-PL-08	Version: E
Location Plan	Plan Ref: BW203B-PL-09	Version: E
Refuse Information	Plan Ref: BW203B-PL-10	Version: E
Public Open Space Details	Plan Ref: BW203B-PL-11	Version: D
Site Plan	Plan Ref: 19-024-020	Version: REV A
Landscape Masterplan	Plan Ref: PR158-01L	Version: P
Concept Plan	Plan Ref: BW203B-CL-01	Version: F
Planning Layout	Plan Ref: BW203B-PL-05	Version: F

- 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 (as amended).

- 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 construction shall be commenced until a schedule of the types and colour of the materials to be used in the external finishes of the buildings hereby permitted has been submitted to and approved in writing by the local planning authority. The development shall 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 occupation of the development hereby approved shall be undertaken unless and until the site boundary fencing means of enclosure as shown on plan BW203B-PL-05 REV F, has been fully implemented. No occupation of each plot hereby approved shall be undertaken unless and until each plot's means of enclosure, as shown on plan BW203B-PL-05 Rev F has been fully implemented.

Reason

In the interests of visual amenity and the amenity of future occupiers.

- 5 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 residential and/or visual amenity.

- 6 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 gate, fence, wall or other means of enclosure shall be erected or constructed, as permitted by Class E of Part 2 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 outbuildings in the interests of visual amenity.

- 7 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 provision of any

building or enclosure within the curtilage of the dwelling-house, as permitted by Class 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

In order that the local planning authority may exercise control over any proposed future outbuildings in the interests of residential and/or visual amenity.

- 8 No occupation of the development hereby approved shall be undertaken unless and until details of any proposed external lighting to be installed within the parking courts and open space, have been submitted to and approved in writing by the local planning authority and no other external lighting to these areas shall be installed without the written consent of the local planning authority. The development shall only be implemented in accordance with the approved details.

Reason

In the interests of visual amenity.

- 9 The garages and car parking spaces, shall be kept available for the parking of motor vehicles at all times. The garages and car parking spaces shall be used solely for the benefit of the occupants of the dwellings of the site and their visitors, and for no other purpose and permanently retained as such thereafter.

Reason

To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the local planning authority.

- 10 No installation of any meter cupboards on the external elevations of the dwellings hereby approved shall be installed, until details of the location, design and materials have been submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details and shall be permanently maintained as such.

Reason

In the interests of the visual amenity of the locality.

- 11 Prior to the occupation of the development hereby approved a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment where appropriate.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.

Reason

To enhance the appearance of the development and in the interests of amenity and privacy.

- 12 No development shall commence until a construction traffic management plan, has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include:-
- Plans indicating the provision of space within the site for the parking of construction workers vehicles and for the delivery and storage of materials.
  - Details of construction vehicle movement and access arrangements;
  - Details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway,
- The development shall thereafter be constructed in accordance with the agreed Plan.

Reason

To protect highway efficiency of movement and safety.

- 13 No occupation of the development shall take place until improvements to the Bury Lane/A12/B1137 junction to provide access to the proposal site as shown on plan 19-24-020A have been completed.

Reason

To protect highway efficiency of movement and safety.

- 14 No vehicular connection shall be made between the site and land immediately to the north-east and south-east.

Reason

To protect highway efficiency of movement and safety.

- 15 No above ground development shall commence until full plans and details of the external wall and roof specifications and acoustic performance specification for all windows, have been submitted to and approved in writing by the local planning authority. The development shall thereafter proceed in accordance with the approved plans.

Reason

In the interests of amenity for future occupiers.

- 16 No works except demolition, site clearance and section 278 access improvements shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local

planning authority. The scheme should include but not be limited to:

- o Limiting discharge rate to 3 l/s (1 in 1 year storm), 7l/s (1 in 30 year storm), 9.9 l/s (1 in 100 plus 20% climate change) and 17.6 l/s (1 in 100 plus 40% climate change) for the relevant storm event.

- Demonstrate that all storage features can half empty within 24 hours for the 1:100 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 and; to provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

- 17 No occupation of the development shall commence, unless and until a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

#### Reason

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

- 18 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.

- 19 No demolition of the existing farm buildings on site (excluding the existing residential dwellings to be demolished) can commence until a programme of historic building recording has been secured and undertaken in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

Reason

To properly provide for the recording of non-designated buildings.

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

Reason

To enable full investigation and recording of this site of archaeological importance.

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

Reason

To enable full investigation and recording of this site of archaeological importance.

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

Reason

To enable full recording of this site of archaeological importance.

- 23 All mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Southern Ecological Solutions Ltd, July 2019) and Precautionary protocol for Japanese knotweed (Invasive Weed Control Limited, September 2019).

Reason

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

habitats & species).

- 24 If the application hereby approved does not commence within two years from the date of the planning consent, the approved ecological mitigation measures secured through condition shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to:
- establish if there have been any changes in the presence and/or abundance of Protected and Priority Species and
  - identify any likely new ecological impacts that might arise from any changes.

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

#### Reason

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

- 25 No works shall be undertaken to existing buildings on site numbered 14, 15 and 17 within the Ecological Impact Assessment, September 2019, unless and until the local planning authority has been provided with either:
- a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorizing the specified activity/development to go ahead; or
  - a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

#### Reason

To conserve Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 and s17 Crime & Disorder Act 1998

- 26 No above ground works shall be undertaken unless and until a Landscape and Ecological Management Plan (LEMP) has been submitted to, and be approved in writing by the local planning authority. The content of the LEMP shall include the following:
- Description and evaluation of features to be managed.
  - Ecological trends and constraints on site that might influence management.
  - Aims and objectives of management.
  - 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 shall be implemented in accordance with the approved details.

#### Reason

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

- 27 No above ground works shall be undertaken unless and until a lighting design scheme for biodiversity has been submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

#### Reason

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

- 28 No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:-  
Monday to Friday 0800 hours - 1800 hours  
Saturday 0800 hours - 1300 hours  
Bank Holidays & Sundays - no work

#### Reason

In the interests of amenity.

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

Reason

In the interests of amenity.

- 30 The development shall be carried out in accordance with the Geo-environmental Site Assessment (29858-1-R01 [00]) prepared by RSK and the Supplementary Geotechnical & Geo-environmental Site Investigation (1920776 R01 [00]) prepared by RSK. Should contamination be found that was not previously identified or not considered in any 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. Following 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.

Reason

In the interest of health and amenity.

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. 01376 552525 upon commencement of the development to enable the early assignment of a postal number(s).

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER