

# PLANNING COMMITTEE AGENDA

Tuesday 9th August 2022 at 7.15pm

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

## **THIS MEETING IS OPEN TO THE PUBLIC**

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

This is a decision making public meeting of the Planning Committee, which may be held as a hybrid meeting. Members of the Planning Committee and Officers will be in attendance in the Council Chamber, Causeway House, Braintree and members of the public may also choose to attend the meeting. Members of the public will also be able to view and listen to this meeting via YouTube.

*To access the meeting please use the following link: <http://www.braintree.gov.uk/youtube>*

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

### **Membership:-**

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

Substitutes: Councillors T Cunningham, A Hensman, D Hume, Mrs A Kilmartin, P Thorogood, Vacancy *(Substitutes who wish to observe the meeting will be required to do so via the Council's YouTube Channel).*

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

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

A WRIGHT  
Chief Executive

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

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

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

### **Public Question Time – Registration to Speak on a Planning Application/Agenda**

**Item:** The Agenda allows for a period of up to 30 minutes for Public Question Time. Members of the public wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk) by **midday on the second working day** before the day of the Committee meeting. For example, if the Committee Meeting is on a Tuesday, the registration deadline is midday on Friday, (where there is a Bank Holiday Monday you will need to register by midday on the previous Thursday). The Council reserves the right to decline any requests to register to speak if they are received after this time.

**Members of the public who have registered to speak during Public Question Time are requested to indicate when registering if they wish to attend the Planning Committee meeting ‘in person’ at Causeway House, Bocking End, Braintree, or to participate remotely. People who choose to join the meeting remotely will be provided with the relevant link and joining instructions for the meeting.**

Members of the public may speak on any matter listed on the Agenda for this meeting. Registered speakers will be invited to speak immediately prior to the relevant application/item. All registered speakers will have three minutes each to make a statement.

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

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

All registered speakers are requested to send a written version of their question/statement to the Governance and Members Team by E-Mail at [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk) by no later than 9.00am on the day of the meeting. In the event that a registered speaker is unable to connect to the virtual meeting, or if there are any technical issues, their question/statement will be read by a Council Officer.

**Public Attendance at Meeting:** The Council has reviewed its arrangements for this decision making meeting of the Planning Committee in light of the Covid pandemic. In order to protect the safety of people attending the meeting, Councillors and Officers will be in attendance at Causeway House, Bocking End, Braintree. Members of the public may also attend the meeting ‘in person’, but priority will be given to those people who have

registered to speak during Public Question Time. Members of the public will be able to view and listen to the meeting either as a live broadcast, or as a recording following the meeting, via the Council's YouTube channel at <http://www.braintree.gov.uk/youtube>

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

Visitors are asked to make themselves aware of the nearest available fire exit. In the event of an alarm sounding visitors must evacuate the building immediately and follow all instructions provided by staff. Visitors will be directed to the nearest designated assembly point where they should stay until they are advised that it is safe to return to the building.

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

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

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

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

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

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

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

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

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

## **PUBLIC SESSION**

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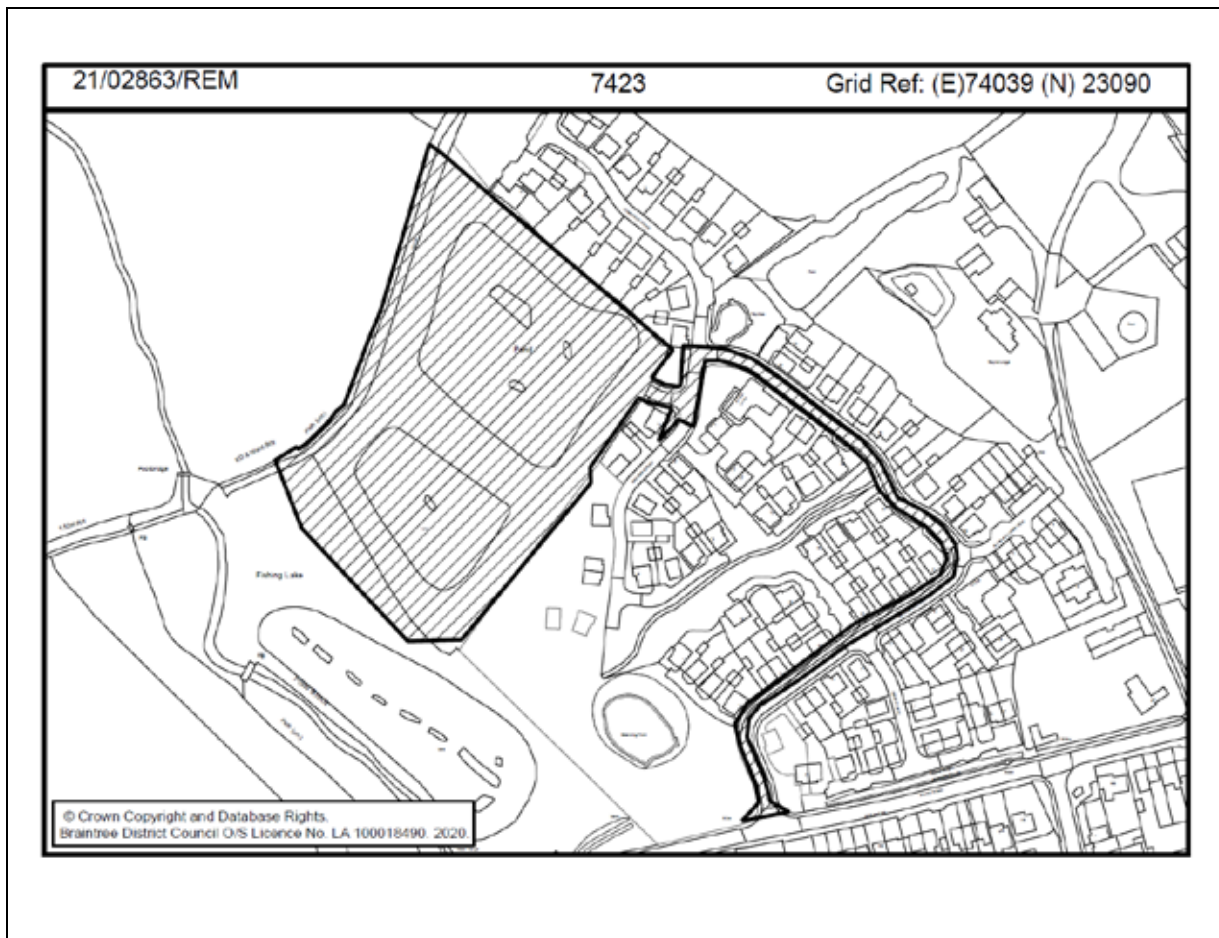
- 1 Apologies for Absence**
- 2 Declarations of Interest**  
To declare the existence and nature of any Disclosable Pecuniary Interest, Other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice 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 28th June 2022 (copy previously circulated).
- 4 Public Question Time**  
(See paragraph above)
- 5 Planning Applications**  
To consider the following planning applications
- 5a App. No. 21 02863 REM – Land at Rayne Lodge Farm, Rayne Road, BRAINTREE** **6-33**
- 5b App. No. 22 00081 FUL – 73 Church Street, COGGESHALL** **34-53**
- 5c App. No. 22 00791 OUT – Land East of Hedingham Road, GOSFIELD** **54-100**
- 6 Urgent Business - Public Session**  
To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.
- 7 Exclusion of the Public and Press**  
To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.  
*At the time of compiling this Agenda there were none.*

**8 Urgent Business - Private Session**

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

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 9th August 2022	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
Application No:	21/02863/REM
Description:	Application for approval of Reserved Matters (scale, appearance, layout and landscaping) pursuant to outline planning permission 18/00092/OUT - 42 No. dwellings and associated works including internal road network, hard and soft landscaping, formal and informal open space, car and cycle parking.
Location:	Land At Rayne Lodge Farm, Rayne Road, Braintree
Applicant:	C/O Agent, The Aquarium, 101 Lower Anchor Street, Chelmsford, CM2 0AU
Agent:	Mr Tom Pike, Lanpro Services Limited, The Aquarium, 101 Lower Anchor Street, Chelmsford, CM2 0AU
Date Valid:	17th September 2021
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the completion of a Section 106 Agreement to cover the Heads of Terms outlined within the Recommendation section of this Committee Report, and subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overtturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Melanie Corbishley For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2527, or by e-mail: <a href="mailto:melanie.corbishley@braintree.gov.uk">melanie.corbishley@braintree.gov.uk</a>

**Application Site Location:**



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



	<p>a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;</p> <p>b) Advance equality of opportunity between people who share a protected characteristic and those who do not;</p> <p>c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.</p> <p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <p>§ Planning Application submission:</p> <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> <p>The application submission can be viewed online via the Council’s Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 21/02863/REM.</p> <p>§ Policy Documents:</p> <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan (2022)</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD’s) (if applicable)</li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council’s website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

1.1 The application site comprises a 2.62 hectares (ha) parcel of land which includes access to Rayne Road through an existing development site (currently nearing completion) to the south, granted planning permission in April 2018 (Application Reference 17/01973/FUL) for the erection of 127 dwellings.

1.2 The site is located outside the Town Boundary of Braintree. The site is roughly rectangular in shape and currently comprises two man-made fishing lakes and associated grassland. The site has an extreme change in levels due to the construction of the lakes.

1.3 Outline planning permission (Application Reference 18/00092/OUT) was granted on 29th November 2018 for the residential development of the site for:

*Outline application for up to 45 dwellings (with all matters other than means of access reserved) comprising Phase 2 of the Rayne Lodge Farm development with associated open space, landscaping and access to Rayne Road.*

1.4 The Applicant proposes to erect a total of 42 dwellings laid out in two rectangular blocks with attenuation pond at the southern corner of the site. A total of 30 market dwellings and 12 affordable dwellings are proposed, consisting a mix of 1-bed to 4-bed properties.

1.5 The principle of the residential development of the site has been established under the outline planning permission (Application Reference 18/00092/OUT).

1.6 There are no objections from the relevant statutory technical consultees and Officers consider that the proposed appearance, landscaping, layout, and scale of the development is acceptable in planning terms.

1.7 Overall it is considered that the detailed proposal constitutes a well-designed scheme and accordingly it is recommended that the Reserved Matters are approved.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site comprises a 2.62 hectares (ha) parcel of land which includes access to Rayne Road through an existing development site (currently nearing completion) to the south, granted planning permission in April 2018 (Application Reference 17/01973/FUL) for the erection of 127 dwellings.

5.2 The site is located outside the Town Boundary of Braintree. The site is roughly rectangular in shape and currently comprises two man-made fishing lakes and associated grassland. The site has an extreme change in levels due to the construction of the lakes.

5.3 A public right of way runs along the North West boundary of the site. There are also public rights of way close to the site, to the south and the west, which link the site to Rayne village. A number of protected trees are located along the North West and South East boundaries of the site.

5.4 To the South West of the site is a river known as Pods Brook and a Grade II listed building known as Rayne Lodge is located to the east of the site.

6. PROPOSAL

6.1 Outline planning permission (Application Reference 18/00092/OUT) was granted on 29th November 2018 for the residential development of the site for:

*Outline application for up to 45 dwellings (with all matters other than means of access reserved) comprising Phase 2 of the Rayne Lodge Farm development with associated open space, landscaping and access to Rayne Road.*

6.2 All matters except access were reserved, meaning that the detailed appearance, landscaping, layout, and scale of the proposed development

must be considered at the Reserved Matters stage with the access being fixed at the outline stage.

6.3 The current Reserved Matters application seeks permission for all of the matters reserved at the outline permission stage. The proposed dwellings (42no.) would consist of detached, semi-detached, maisonettes and terraced units.

6.4 The application is supported by the following documents:

- Compliance report
- Dust and Mud Control Management Plan
- Ecology Enhancements
- Flood Risk Assessment
- Landscape and Ecology Management Plan
- Accommodation Schedule
- Design and Access Statement
- Highways Adoption Plan

## 7. SUMMARY OF CONSULTATION RESPONSES

7.1 Three consultations were carried out, the third following the submission of revised plans which sought to address a number of design and layout concerns raised by Officers and consultees. A summary of the consultation responses received is set out below.

### 7.2 Anglian Water

7.2.1 No comments received.

### 7.3 Environment Agency

7.3.1 No objection, but provided advice regarding biodiversity net gain.

### 7.4 Essex Fire and Rescue

#### *Access*

7.4.1 Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13. The proposal itself does not affect fire service access to existing premises in the vicinity. Fire service access to the proposed development appears sufficient, meeting the requirements of Section B5 Approved Document "B" Fire Safety Volume 1.

#### *Water Supplies*

7.4.2 The architect or applicant is reminded that additional water supplies for firefighting may be necessary for this development. The architect or applicant is urged to contact Water Section at Service Headquarters, 01376 576000.

### *Sprinkler Systems*

- 7.4.3 Promote the use of sprinkler systems throughout the site

### *Fire Hydrants*

- 7.4.4 Following a review of these documents we can advise that due to what would be considered an excessive distance to the nearest existing statutory fire hydrant, it is considered necessary that additional fire hydrants are installed within the curtilage of the proposed site. Should the development proceed, once we receive the new water main design scheme for this development from the local Water Authority, we will liaise with them directly to ensure that all necessary fire hydrants are provided.

### 7.5 Essex Police

- 7.5.1 BDC RPL90 (viii) states - Designs and layouts shall promote a safe and secure environment, crime reduction and prevention and shall encourage the related objective of enhancing personal safety. Whilst there are no apparent concerns with the layout to comment further we would require the finer detail such as the proposed lighting, and physical security measures. We would welcome the opportunity to consult on this development to assist the developer demonstrate their compliance with this policy by achieving a Secured by Design Homes award. An SBD award is only achieved by compliance with the requirements of the relevant Design Guide ensuring that risk commensurate security is built into each property and the development as a whole.

### 7.6 Natural England

- 7.6.1 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); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information.
- 7.6.2 In the context of your duty as competent authority 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. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Braintree District Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions.

7.6.3 We therefore advise that you consider, in line with our recent advice, 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.

7.7 NHS

7.7.1 No comments received.

7.8 BDC Ecology

7.8.1 No objection

7.9 BDC Emergency Planner

7.9.1 No emergency planning issues have been identified.

7.10 BDC Environmental Health

7.10.1 No objection. A number of conditions are suggested regarding unexpected, contaminated land, control of dust measures, construction hours and noise precautions.

7.11 BDC Housing Research and Development

7.11.1 This application now seeks detailed approval for a scheme that comprises 42 residential dwellings including 12 affordable homes. I confirm we are satisfied the affordable mix meets the requirements of Affordable Housing Policy CS2 (NB This response was received before the adoption of the Local Plan). The affordable unit and tenure mix illustrated in the submitted Tenure Plan drawing number 21-3128-007 Revision B and shown in the table below is considered appropriate to address housing need.

Type	No.	Affordable Rent	Shared Ownership
1 bed 2 person maisonette	4	4	0
2 bed 4 person house	7	4	3
3 bed 5 person house	2	1	1
	13	9	4

7.11.2 We remain supportive of this application because it provides opportunity for new affordable homes to be delivered which will compliment local existing social housing stock and assist the Council in meeting housing need.

- 7.12 BDC Landscape Services
- 7.12.1 No objection. Request a condition regarding the submission of a tree protection plan.
- 7.13 BDC Waste Services
- 7.13.1 No objection.
- 7.14 ECC Education
- 7.14.1 No comments received.
- 7.15 ECC Highways
- 7.15.1 No objection.
- 7.16 ECC Historic Buildings Consultant
- 7.16.1 In line with previous comments on the outline application there are no objections to this application from a built heritage perspective.
- 7.16.2 The site falls adjacent to a larger outline application site, which was initially granted outline permission in 2016 under the reference 15/01458/OUT. This earlier outline application site is located to the east and south of the current application site, and severs the physical and visual association between the current application site and the listed building. The impact of the development of this site on the significance of the listed building is therefore considered to be negligible.
- 7.17 ECC Independent Living/ Extra Care
- 7.17.1 No comments received.
- 7.18 ECC Minerals and Waste
- 7.18.1 No comments received.
- 7.19 ECC Suds
- 7.19.1 No objection.
- 8. PARISH / TOWN COUNCIL
- 8.1 Rayne Council
- 8.1.1 The site lies adjacent to Rayne Parish area.

8.1.2 The Parish Council considered that the proposed site was well laid out and made no comments on the application.

## 9. REPRESENTATIONS

9.1 In total 38 objections have been received at the time of writing.

9.2 For the purposes of clarity none of the objectors stated that they withdrew their original objection following the revised scheme and therefore all objections have been treated as objections to both the original and the revised scheme.

9.3 The representations received are summarised below:

- § Disruption to natural landscape and wildlife
- § Loss of privacy
- § Insufficient parking that could create problems elsewhere
- § Additional traffic in the area
- § Local amenities cannot support further population in the area
- § Concern about access to the site being through the existing Rayne Gardens development, which existing residents pay to maintain
- § Noise and disturbance from contractors, particularly dirt from contractors vehicles on the newly constructed roads
- § Concern about the impact on the protected trees
- § Access to site could be harmful to the children's play area
- § The new dwellings would not be in keeping with the adjacent Redrow scheme
- § Detrimental impact on drainage, that could cause flooding
- § Concerns regarding the impact on a nearby badger sett
- § Loss of trees
- § The site lies outside the Town Boundary of Braintree
- § Concerns regarding inaccuracies in the ecology information
- § The application site was supposed to be left as ecology land in relation to the Redrow site
- § Loss of privacy to 21 Homefield Drive due to siting of maisonettes 12/13 and plots 10/11
- § Replacement hedge planting will take a long time to mature and create a suitable habitat when compared to the hedgerow being removed
- § Concerns regarding the mix of dwellings across the site
- § Occupiers of the Redrow site were advised that no further dwellings would be built
- § Subsidence issues

## 10. PRINCIPLE OF DEVELOPMENT

10.1 The principle of the residential development of the site has been established under the original outline planning permission (Application Reference 18/00092/OUT) which was issued on 28th November 2018 and this included the access.



10.2 The current application seeks approval only for the reserved matters pursuant to the outline planning permission:

- Appearance;
- Landscaping;
- Layout; and
- Scale.

10.3 It is therefore these reserved matters which must be assessed in detail.

## 11. SITE ASSESSMENT

### 11.1 Appearance, Layout and Scale

11.1.1 Policy SP7 of the Adopted Local Plan states that all new development must meet high standards of urban and architectural design. Policy LPP52 of the Adopted Local Plan states that the Council will seek a high standard of layout and design in all developments in the District.

11.1.2 At the national level, the NPPF is also clear in its assertion at Paragraph 126 that:

*‘The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’.*

11.1.3 There is therefore a strong policy basis for achieving a high degree of quality in terms of the appearance, layout and scale of the development whilst ensuring that it complies with the outline planning permission for the site.

11.1.4 During the life of the application, the scheme has been modified following discussions between Officers and the applicant to overcome initial concerns regarding layout and appearance. The number of dwellings has been reduced from 43 to 42.

11.1.5 The applicant proposes 42 dwellings over a gross site area of approximately 2.62ha. This results in a density of 16 dwellings per hectare which is not considered excessive and is appropriate for this location. The site also contains areas of open space and a sustainable urban drainage system.

11.1.6 The development is laid out in two broadly rectangular blocks, with a further line of development proposed to the north of the northern most block. All the new roads are shown to be either tree lined or overlooking areas of new tree planting.

- 11.1.7 All garden sizes are compliant with the Essex Design Guide requirements and the four maisonettes have been provided with carefully designed private amenity space. In terms of scale, all the dwellings and maisonette blocks are two storey. The dwellings located in visually important positions within the site have been carefully positioned to ensure they terminate views across the site.
- 11.1.8 Following the grant of outline planning permission, the design of the proposed dwellings have been revised following discussions during the application process. These discussions sought to improve the overall quality of the design of the dwellings. The current proposals are therefore a reflection of negotiations between Officers and the Applicant, who have implemented the changes that have been requested.
- 11.1.9 The dwellings have a simple, but contemporary appearance and some of the detached dwellings have chimneys. The dwellings have a variety of roof styles, along with a mixed palette of exterior materials including render, black weatherboarding, and red and buff bricks. The style and design of the new dwellings are considered acceptable and comply with the policies and guidance outlined above. A suitably worded condition is recommended to be imposed to secure finalised details of the materials.
- 11.1.10 1.8m high brick walls are proposed to enclose private gardens where the boundary is visible from the street, and timber fencing between private gardens. These proposed boundary treatments are considered appropriate and acceptable for this site.
- 11.1.11 The development is compliant with the Essex Design Guide in terms of back to back distances between new dwellings.
- 11.1.12 To ensure that the new properties retain sufficient sized gardens and also maintain acceptable relationship between them, it is considered necessary to impose a planning condition removing permitted development rights for alterations, extensions, and the building of outbuildings in rear gardens.
- 11.1.13 In terms of the proposed housing mix, the scheme consists of the following dwelling mix with 30no. market dwellings and 12no. affordable dwellings:

**Market Mix:**

5no. 2 bed  
10no. 3 bed  
15no. 4 bed

**Affordable Mix:**

4no. 1 bed maisonette  
6no. 2 bed  
2no. 3 bed

- 11.1.14 The dwelling mix covers a range of sizes for both private and affordable tenures. The Council's Affordable Housing Officer has confirmed his agreement with the proposed affordable mix in terms of it meeting identified need.
- 11.1.15 Overall the layout, appearance, and scale of the proposal are considered to be acceptable. Layout in relation to landscaping is discussed in more detail below.
- 11.2 Landscaping and Trees
- 11.2.1 Policy SP7 of the Adopted Local Plan states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. It goes on to state that new development should enhance the public realm through additional landscaping, street furniture and other distinctive features that help to create a sense of place.
- 11.2.2 Policy LPP67 of the Adopted Local Plan states that in its decision-making on applications, the Local Planning Authority will take into account the different roles and character of the various landscape areas in the District, and recognise the intrinsic character and beauty of the countryside, in order to ensure that any development permitted is suitable for the local context. Furthermore where development is proposed close to existing features, it should be designed and located to ensure that the condition and future retention/management will not be prejudiced but enhanced where appropriate.
- 11.2.3 The applicant proposes a hard and soft landscaping scheme across the reserved matters site which has been reviewed by the Council's Landscape Officer and Urban Design Consultant and is considered to be acceptable following a number of revisions.
- 11.2.4 Officer's acknowledge the comments made by a number of residents with regards the loss of vegetation across the site, however due to the existing land level conditions across the site to enable it to be developed, the vast majority of the existing vegetation within the site has either been removed or will be removed.
- 11.2.5 Three protected trees lie outside the red line of the application site area but very close to the southern boundary of the site and Landscape Officer has requested that a tree protection plan should be secured by condition. Details regarding tree protection were required under Condition 24 of 18/00092/OUT. These details have been approved under 21/02518/DAC. Therefore an informative will be imposed reminding the applicant that the development should be carried out in accordance with the details approved by this discharge of condition application.
- 11.2.6 The NPPF states at Paragraph 130 that new streets should be tree lined and that opportunities should be taken to incorporate trees elsewhere in

Developments. The proposal benefits from extensive tree planting across the site with street trees forming an important part of both the landscape and townscape character of the proposed development.

- 11.2.7 The landscape proposals indicate large areas of grassland across the site along with planted beds and hedgerows proposed to the front of the majority of the dwellings proposed.
- 11.2.8 The sites hard landscaping varies, with roads and driveways being constructed primarily from a mixture of tarmac, concrete sets and block paving. Concrete paving slabs are proposed for access paths for all of the dwellings.
- 11.2.9 Overall the site's proposed landscaping is carefully considered and is of an acceptable standard.

### 11.3 Ecology

- 11.3.1 Policy LPP66 of the Adopted Local Plan states proposals that result in a net gain in priority habitat will in principle be supported, subject to other policies in this plan. Where priority habitats are likely to be adversely impacted by the proposal, the developer must demonstrate that adverse impacts will be avoided, and impacts that cannot be avoided are mitigated on-site. Where residual impacts remain, off-site compensation will be required so that there is no net loss in quantity and quality of priority habitat in Braintree District.
- 11.3.2 It goes onto state that where there is a confirmed presence or reasonable likelihood of protected species or priority species being present on or immediately adjacent to a development site, the developer will be required to undertake an ecological survey and will be required to demonstrate that an adequate mitigation plan is in place to ensure no harm to protected species and no net loss of priority species.
- 11.3.3 The ecological impact of developing the site was assessed in full at the outline planning application stage and is not for specific consideration as a reserved matter although additional information has been submitted for consideration.
- 11.3.4 The Council's Ecologist has reviewed the Badger Mitigation Scheme (Derek Finnie Associates, November 2021). The submitted scheme provides details of appropriate precautionary measures to be implemented..
- 11.3.5 Therefore the Council's Ecologist is satisfied that an appropriate mitigation strategy has been provided. Subject to the full implementation of the mitigation scheme, they are satisfied that adverse impacts badgers will be avoided from the proposed works and that the local planning authority can discharge its duties under Badger Protection Act 1992, the Wildlife Countryside act 1981 (as amended) and Protection of Animals Act 1911. A suitable worded conditions will be recommended regarding the implementation of the mitigation scheme.

11.3.6 Initially the Council's Ecologist raised a holding objection due to concerns with regards the level of Biodiversity Net Gain being proposed. The Council's Ecologist advised that a Trading Summary issue with the Defra Biodiversity Metric Calculations had been identified and recommended that this should be amended within the landscape scheme. This is because Rule 3 of the metrics indicates: 'Trading down' must be avoided. Losses of habitat are to be compensated for on a "like for like" or "like for better" basis. Therefore, it cannot be demonstrated that a net gain for biodiversity will be delivered based on the metrics (in line with Paragraph 174d of the NPPF) if trading issues are present.

11.3.7 Biodiversity Net Gain - Good practice principles for development, notably Principle 6 indicates the following: Principle 6. Achieve the best outcomes for biodiversity Achieve the best outcomes for biodiversity by using robust, credible evidence and local knowledge to make clearly-justified choices when:

- Delivering compensation that is ecologically equivalent in type, amount and condition, and that accounts for the location and timing of biodiversity losses;
- Compensating for losses of one type of biodiversity by providing a different type that delivers greater benefits for nature conservation;
- Achieving Net Gain locally to the development while also contributing towards nature conservation priorities at local, regional and national levels;
- Enhancing existing or creating new habitat;
- Enhancing ecological connectivity by creating more, bigger, better and joined areas for biodiversity.

11.3.8 However, a letter submitted in support of the application from Derek Finnie Associates, 31st January 2022 has indicated the following:

*"Currently, as affirmed by the Inspector's summary in Wises Lane, Sittingbourne decision (APP/V2255/W/19/3233606) NPPF refers to "...measurable net gains...", but it does not define that measure or how it should be measured. Thus "whether there is compliance with national policy is the subject of professional judgement" until such times as a specific Metric and its implementation is defined under Section 4(6) of Schedule 14.*

*Therefore, there is currently no legal or policy requirement to complete the Defra Metric 3.0 in order to demonstrate a positive BNG. It has been used here solely to provide an objective assessment of the biodiversity enhancements within the scheme through habitat creation and allow the LPA to see that 'measurable gains' are provided in line with NPPF. The fact the submitted Metric does not meet all the Rules presented in the User Guide is currently not relevant."*

- 11.3.9 The appeal states that the delivery of measurable net gain is subject to professional judgement. Therefore, the Council's Ecologist can consider if "Trading down" can be acceptable in some circumstances, until measurable net gains comes into force. In this case, the applicant's ecologist indicates that the provision of a biodiversity net gain of 9.29% habitat units can be delivered within the site (although habitat with a medium distinctiveness is being lost and not replaced like for like). However, the Council's Ecologist also acknowledge that the use of the metric is not currently a requirement until secondary legislation is issued.
- 11.3.10 The Council's Ecologist has also taken into consideration that the tree and vegetation removal had already been approved under the outline application and before the use of the Biodiversity Metric was recommended. Therefore, in respect of this application the Council's Ecologist has considered the matter further and recommends that the holding objection for the Trading Summary issue should be withdrawn, in this circumstance.
- 11.3.11 Given the above, Officers are satisfied with the information submitted and that the proposals comply with the policies and guidance outlined above.

#### 11.4 Highway Considerations

- 11.4.1 The impact of the development on the highway network and the acceptability of the access was assessed at the outline planning stage and is not a reserved matter. Parking provision and the internal site layout are however for consideration as part of the reserved matters application.
- 11.4.2 With regard to site layout, ECC Highways have been consulted and following a number of minor revisions have no objection to the site's internal layout in highway terms.
- 11.4.3 In terms of parking, private provision would be made across the site and would exceed the requirements set out in the Essex Parking Standards (2009) which requires 1 space per 1 bed dwelling and 2 spaces per two or more bed dwellings. In total, provision would be made for 86 off-street spaces and 24 size compliant garages (110 total) as opposed to the required 80 spaces.
- 11.4.4 Visitor parking would be spread around the development and 11 spaces are provided, which is policy compliant.
- 11.4.5 With regard to electric vehicles, Policy LPP42 of the Adopted Local Plan requires developments to make appropriate provision for electric vehicles. The outline planning permission was however granted in November 2018, before there was a policy basis for requiring such provision. Notwithstanding this, a condition is recommended requiring the submission and approval of an electric vehicle charging strategy prior to occupation of the dwellings.

- 11.4.6 Overall, parking provision on the site is considered to be acceptable.
- 11.4.7 Many of the local residents have raised concerns about the use of the existing estate road serving the Redrow site for construction traffic. As set out above the vehicular access for this site was established by the outline planning permission (Application Reference 18/00092/OUT).
- 11.4.8 The applicant's agent provided Officers with the following information:
- 'Redrow previously wrote to its residents in relation to the construction access. We understand that the majority of feedback it received supported the use of the existing construction access to also serve the Mulberry Home's development. On this basis, Redrow has written again to its residents to advise that it intends to grant a license to Mulberry Homes to allow it to continue to use the construction access (with some amendments). This is however subject to the due legal process. Also, a further temporary planning permission will be needed on the basis that the existing consent has lapsed.*
- So in light of the above, Mulberry Homes is hopeful that it will be able to utilise the existing construction access (with some amendments). There is however a legal process to be completed; this may take a little time. Once the legal process is a little more certain, Mulberry Homes will then submit a 'fresh' application for temporary planning permission. Until both matters are concluded however, and subject to the RMA being approved and the requisite conditions discharged, Mulberry Homes will utilise the 'permanent' site access off Badger Mount, with construction vehicles travelling up Broomfield Way to access the Site from Rayne Road. It will however revert to using the existing construction access (with some amendments) as soon as it is able.'*
- 11.4.9 Whilst Mulberry Homes wish to resolve the issue of the construction traffic access by creating a revised temporary haul road, this is not secured at this time, and cannot be secured by this REM application.
- 11.4.10 Therefore Officers advise that the use of the estate road to access this application both during the construction phase and also once the development is completed has to be considered as the likely access route, as the creation of the temporary haul road cannot be guaranteed.
- 11.4.11 The use of the access for both construction vehicles and by future residents was assessed by ECC Highways during the life of the outline application and no objection was raised. A condition was imposed on the outline permission requiring the submission of the Construction Management Plan, and a Discharge of Conditions application has recently been discharged.
- 11.5 Impact upon Neighbouring Residential Amenity
- 11.5.1 Paragraph 130 of the NPPF states that planning policies and decisions should create places with a high standard of amenity for existing and future

users. Policy LPP52 of the Adopted Local Plan also states that development should not have an unacceptable impact upon neighbouring amenity.

- 11.5.2 A number of concerns have been raised with regards the relationship between the new development and the new properties on the Redrow site. There are a number of properties in Home Field Drive and Badgers Mount that adjoin the application site. Officers consider that the proposed development lies a sufficient distance from the existing dwellings in order to protect their amenity.
- 11.5.3 However, one dwelling, No.21 Home Field Drive, lies close to the northern corner of the site. A pair of maisonettes are located close to the side boundary belonging to No.21. At its closest point, the maisonette lies 10m from the boundary and 14m at its furthest point. The rear facing first floor windows would directly overlook the flank (side) elevation of No. 21. The side elevation of this property does not contain any first floor openings, and have a ground floor window serving the kitchen and door serving a utility room. The maisonette contains two first floor north facing windows. These windows would serve a bathroom and a kitchen.
- 11.5.4 The Essex Design Guide does not provide a specific distance that should be maintained between the rear of a new dwelling and the side elevation of an existing property. Given the orientation and siting of the maisonette block and No.21 Home Field Drive, Officers consider that there is the potential of some partial/oblique overlooking from the proposed first floor windows. Given this, Officers consider that it is necessary to impose a condition requiring these two windows to contain obscured glass and be fixed to a height of 1.7m above finished floor level in the maisonette. With the imposition of this condition, Officers are satisfied with the resulting relationship between the two buildings.
- 11.5.5 Officers are therefore content that the resulting development would maintain acceptable relationship with all neighbouring properties and complies with the policies and guidance outlined above.

## 11.6 Flooding and Drainage Strategy

- 11.6.1 Flood risk and drainage were considered at the outline planning application stage and a detailed set of related conditions are attached to the outline planning permission in relation to this.

## 11.7 Heritage

- 11.7.1 The site is located adjacent to a larger development site, which was initially granted outline permission in 2016 under Application Reference 15/01458/OUT, and was subsequently granted full planning permission in April 2018, under Application Reference 17/01973/FUL. This application site is located to the east and south of the current application site, and



serves as a physical and visual association between the current application site and the listed building, Rayne Lodge.

11.7.2 The impact of the development of the application site on the significance of the listed building is therefore considered to be negligible and therefore no objection is raised to the application from a heritage perspective.

#### 11.8 Refuse and Recycling

11.8.1 Condition 5 of Application Reference 18/00092/OUT requires details of the location and design of the refuse bins and recycling materials separation, storage areas and collection points; and this application includes details of such.

11.8.2 The details have been assessed by the Council's Waste Team who have raised no objection to the proposals. A specifically worded condition will be imposed to require the bin collection points to be provided prior to the occupation of the new dwellings.

11.8.3 The matter of indemnity has arisen with regards to potential future claims for damages to private sections of road. Members are advised that the decision on the amount of road that is adopted lies with ECC and is beyond the control of BDC.

11.8.4 To overcome this, specific wording has been included within recent legal agreements to ensure that both the private and adopted roads are built to the standards commensurate with that required by the Local Highway Authority and that access for the Council to pass and repass over these roads can be permitted at all times. The Council are now securing this obligation routinely and this matter has been dealt with by a submission of a deed of variation to the original legal agreement.

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

11.9.1 In terms of the wider ecological context, the application site sits within the Zone of Influence of one or more of the following:

- § Blackwater Estuary Special Protection Area and Ramsar site;
- § Dengie Special Protection Area and Ramsar site;
- § Essex Estuaries Special Area of Conservation.

11.9.2 It is therefore necessary for the Council to complete an Appropriate Assessment under the Habitat Regulations to establish whether mitigation measures can be secured to prevent the development causing a likely significant adverse effect upon the integrity of these sites.

11.9.3 An Appropriate Assessment (Habitat Regulation Assessment Record) has been completed in accordance with Natural England's standard guidance. Subject to the proposed mitigation measures set out in the Council's Habitat Regulations Assessment being secured these mitigation measures

would rule out the proposed development causing an adverse effect on the integrity of the above European Designated Sites.

11.9.4 The proposed mitigation measures would consist of the securing of a financial contribution of £137.71 per dwelling erected towards offsite visitor management measures at the above protected sites.

11.9.5 This financial contribution would be secured by way of a deed of variation to the original legal agreement.

## 12. PLANNING OBLIGATIONS

12.1 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 deed of variation to the original Section 106 Legal Agreement:

- **HRA** - The site lies within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site. A financial contribution towards offsite visitor management measures for the Blackwater Estuary SPA & Ramsar site, (£137.71 per dwelling) for delivery prior to occupation would be required.
- **Refuse Vehicle Access** - To ensure that both the private and adopted roads are built to the standards commensurate with that required by the Local Highway Authority and that access for the Council to pass and repass over these roads can be permitted at all times.
- **NHS** - Amend the definition of Healthcare Contribution Purpose to 'means the provision of increased medical/healthcare capacity by the extension or refurbishment or reconfiguration or relocation of GP Surgeries / Health Centres within the town of Braintree including the reimbursement of capital funding for such provision made by NHS England in anticipation of receipt of the Healthcare Contribution'.
- **Outdoor Sport Contribution** - Amend the definition of Outdoor Sport Contribution to 'means the provision of artificial training pitches within the town of Braintree'.

## 13. CONCLUSION

13.1 The principle of the residential development of the site is established under the outline planning permission. The applicant now seeks approval for reserved matters of this outline permission consisting of the appearance, landscaping, layout and scale of development.

13.2 The proposal has been amended to respond to concerns raised during the course of the application and Officers consider that in its current form it now represents a well-considered and quality scheme and that the proposal is acceptable in planning terms. Accordingly it is recommended that the Reserved Matters are approved.

14. RECOMMENDATION

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

- **HRA** – The site lies within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site. A financial contribution towards offsite visitor management measures for the Blackwater Estuary SPA & Ramsar site, (£137.71 per dwelling) for delivery prior to occupation would be required.
- **Refuse Vehicle Access** - To ensure that both the private and adopted roads are built to the standards commensurate with that required by the Local Highway Authority and that access for the Council to pass and repass over these roads can be permitted at all times.
- **NHS** - Amend the definition of Healthcare Contribution Purpose to ‘means the provision of increased medical/healthcare capacity by the extension or refurbishment or reconfiguration or relocation of GP Surgeries / Health Centres within the town of Braintree including the reimbursement of capital funding for such provision made by NHS England in anticipation of receipt of the Healthcare Contribution’.
- **Outdoor Sport Contribution** - Amend the definition of Outdoor Sport Contribution to ‘means the provision of artificial training pitches within the town of Braintree’.

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

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Approved Plan(s) & Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Location Plan	21-3128-001	N/A
Elevations	21-3128-022	A
Elevations	21-3128-025	A
Elevations	21-3128-026	A
Floor Plan	21-3128-027	A
Elevations	21-3128-028	A
Floor Plan	21-3128-029	A
Elevations	21-3128-030	A
Elevations	21-3128-032	A
Elevations	21-3128-033	A
Floor Plan	21-3128-049	A
Drainage Details	21050-BDC-C-XX- XX-EL-0518-P02	N/A
Drainage Details	21050-BDC-C-XX- XX-EL-0519-P02	N/A
Massing Plan	21-3128-005	D
Boundary Treatment Plan	21-3128-004	D
Refuse Information	21-3128-006	D
Tenure Plan	21-3128-007	D
Other	21-3128-008	E
Parking Strategy	21-3128-009	E
Landscape Masterplan	2979-5-2-DR-5000	P9
Landscaping	2979-5-2-DR-5001	P9
Landscaping	2979-5-2-DR-5002	P9
Landscape Specification	2979-5-2-DR-5100	P9
Landscaping	DR-5701	P1
Highway Plan	21050-BDC-C-XX- XX-EL-0110-P05	N/A
Other	21050-BDC-C-XX- XXEL-0721-TO4	N/A
Floor Plan	21-3128-024	A
Floor Plan	21-3128-031	A
Floor Plan	21-3128-034	A
Floor Plan	21-3128-037	A
Elevations	21-3128-038	A
Elevations	21-3128-039	A
Floor Plan	21-3128-040	A
Elevations	21-3128-041	A
Elevations	21-3128-042	A
Floor Plan	21-3128-045	B

Elevations	21-3128-046	B
Floor Plan	21-3128-047	A
Floor Plan	21-3128-051	B
Elevations	21-3128-052	B
Garage Details	21-3128-053	A
Garage Details	21-3128-054	A
Road Hierarchy plan	21050-BDC-C-XX- XX-CS-0621	P02
Road Hierarchy plan	21050-BDC-C-XX- XX-CS-0622	P02
Swept Path Details	21050-BDC-C-XX- XX-EL-0101	P02
Swept Path Details	21050-BDC-C-XX- XX-EL-0102	P02
Drainage Details	21050-BDC-C-XX- XX-EL-0511	P06
Drainage Details	21050-BDC-C-XX- XX-EL-0512	P06
Levels	21050-BDC-C-XX- XX-EL-0611	P01
Levels	21050-BDC-C-XX- XX-EL-0612	P01
Section	21050-BDC-C-XX- XX-EL-0615	P02
Other	21050-BDC-C-XX- XX-EL-0810	P04
Other	21050-BDC-C-XX- XX-EL-0811	P04
Elevations	21-3128-021	B
Floor Plan	21-3128-020	B
Elevations	21-3128-023	B
Elevations	21-3128-035	B
Elevations	21-3128-036	B
Floor Plan	21-3128-043	B
Elevations	21-3128-044	B
Elevations	21-3128-048	B
Elevations	21-3128-050	B
Site Plan	21-3128-002	D

Condition(s) & Reason(s)

Condition 1

The development hereby permitted shall begin not later than 2 years from the date of this decision.

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

#### Condition 2

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

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

#### Condition 3

The development shall not be occupied until the car parking area indicated on the approved plans, including any parking spaces for the mobility impaired has been hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times. The car park shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure adequate parking space is provided in accordance with the Council's adopted Parking Standards.

#### Condition 4

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

Reason: In order that the Local Planning Authority may exercise control over any proposed future extensions/alterations/outbuildings in the interests of residential and visual amenity.

#### Condition 5

No above ground development shall commence until an Electric Vehicle Charging Strategy to demonstrate the provision of at least one Electric Vehicle Charging point to every dwelling hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented for each dwelling prior to the occupation of that dwelling and thereafter retained.

Reason: In the interest of securing sustainable development and contributing to reduce carbon emissions.

#### Condition 6

Prior to the occupation of the dwellings hereby approved, the bin collection points shall be installed and permanently retained.

Reason:

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

### Informative(s)

#### Informative 1

The applicant is reminded that Conditions 3, 7, 9, 13, 14, 20, 21 and 28 of 18/00092/OUT are still outstanding and details should be submitted to and approved by the Local Planning Authority.

#### Informative 2

The applicant is reminded that the development should be carried out in accordance with the tree protection plans approved under 21/02518/DAC.

### Positive and Proactive Statement

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

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 – 2033

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP4	Meeting Housing Needs
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP16	Housing Provision and Delivery
LPP35	Housing Mix, Density and Accessibility
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their settings
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP67	Landscape Character and Features
LPP73	Renewable Energy Schemes
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems
LPP77	External Lighting
LPP78	Infrastructure Delivery and Impact Mitigation

#### Other Material Considerations

Essex Design Guide  
Essex Parking Standards



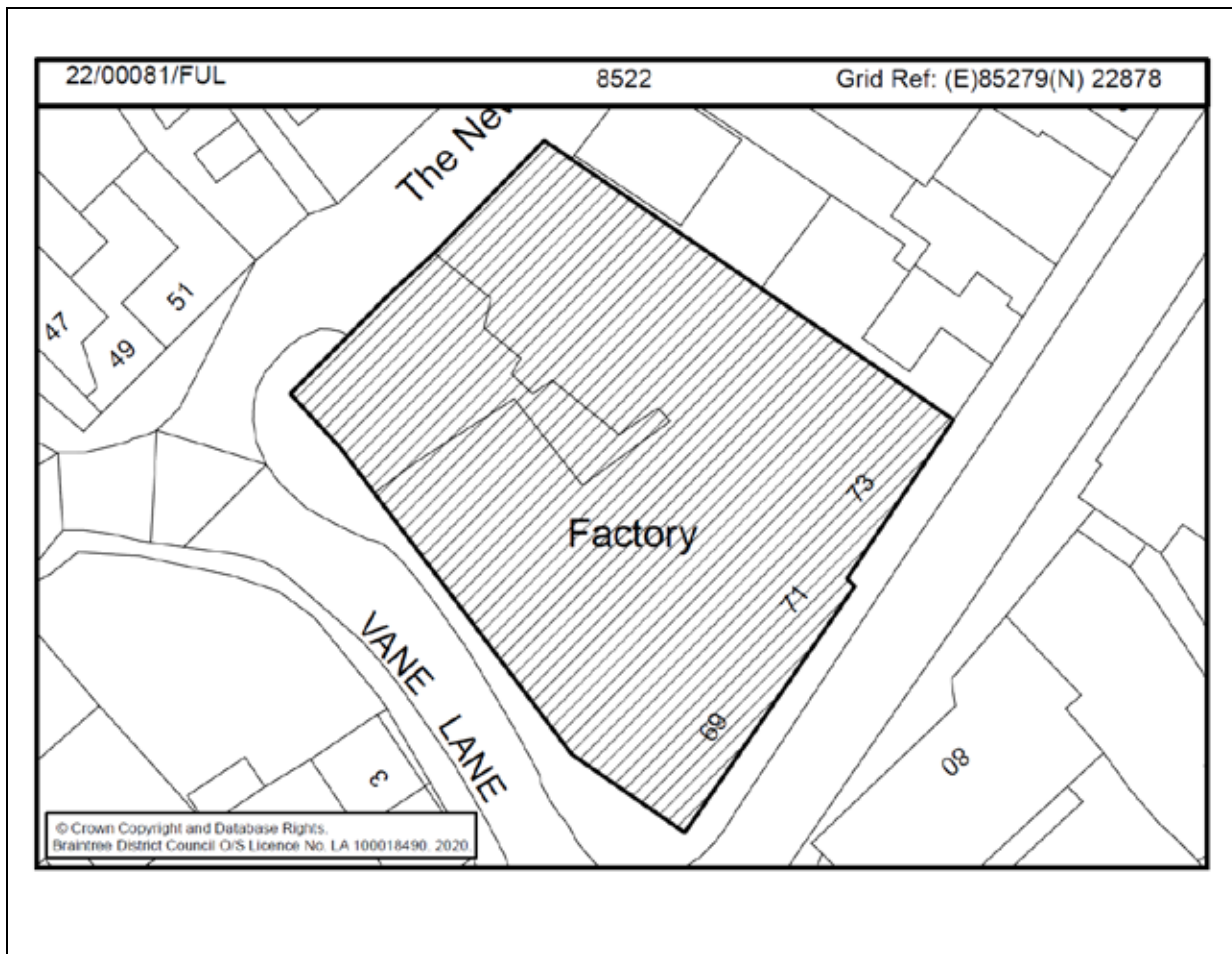
APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
18/00092/OUT	Outline application for up to 45 dwellings (with all matters other than means of access reserved) comprising Phase 2 of the Rayne Lodge Farm development with associated open space, landscaping and access to Rayne Road	Granted with S106 Agreement	29.11.18
20/02211/DAC	Application for approval of details as reserved by conditions 19, 20 & 21 of approved application 18/00092/OUT	Withdrawn	10.03.21
20/02213/DAC	Application for approval of details as reserved by condition 16 of approved application 18/00092/OUT	Granted	22.01.21
21/02518/DAC	Application for approval of details reserved by conditions 19 (Protected Species), 23 (Arboricultural Impact), 24 (Tree Protection) and 25 (Appointment of Arboricultural Clerk of Works) of approved application 18/00092/OUT.	Granted	05.11.21
21/02945/DAC	Application for approval of details as reserved by condition 8 of approved application 18/00092/OUT	Granted	05.11.21
21/03674/DAC	Application for approval of details as reserved by condition 27 of approved application 18/00092/OUT	Granted	24.06.22

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 9th August 2022	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	22/00081/FUL
<b>Description:</b>	Demolition of Building 1 within former factory complex.
<b>Location:</b>	73 Church Street Coggeshall Essex
<b>Applicant:</b>	Mr Simon Hollington, C/O Agent
<b>Agent:</b>	Pomery Planning Consultants Ltd, Mr Robert Pomery, Pappus House, Tollgate West, Stanway, Colchester, CO3 8AQ
<b>Date Valid:</b>	17th January 2022
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made:  § Application GRANTED subject to the Condition(s) & Reason(s) and Informative(s) outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can:  a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Approved Plan(s) & Document(s) Condition(s) & Reason(s) and Informative(s)
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
<b>Case Officer:</b>	Natalie Banks For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2545, or by e-mail: <a href="mailto:natalie.banks@braintree.gov.uk">natalie.banks@braintree.gov.uk</a>

**Application Site Location:**



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

	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council’s Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/00081/FUL.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan 2013 - 2033</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD’s) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council’s website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

1. EXECUTIVE SUMMARY

- 1.1 The application site is the former Hollington's Factory site in Coggeshall, comprising of three adjoined buildings.
- 1.2 This application seeks planning permission for the demolition of the largest building of the three, due to the findings of a Condition Appraisal prepared on behalf of the Applicant and reviewed by the Council's Building Control Team.
- 1.3 The site is located in a Conservation Area and the building is considered to be a non-designated heritage asset in accordance with the NPPF, however, it is considered that the building is beyond economic repair.
- 1.4 No planning permission has yet been issued for the redevelopment of the site, and this weighs against granting planning permission for the demolition.
- 1.5 Although the building is deemed a non-designated heritage asset, there are no mechanisms under the Planning Acts that would enable the Local Planning Authority to insist on its retention.
- 1.6 When considering the proposal and having regard to the adverse impacts on the appearance of the Conservation Area from the demolition, Officers have concluded that the condition of the building and the danger it represents to the general public outweighs the harm resulting from the conflict with the Development Plan, such that planning permission should be granted.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The former Hollington's Factory site comprises 3 adjoined buildings sited on the corner of Church Street and its junction with Vane Lane within the village of Coggeshall.

5.2 The buildings were built in the early 1900s and were used for the manufacture of clothing by Hollington's up to 2013 when production was moved to London. Since then the buildings have remained unused and empty.

5.3 The buildings are unlisted and are within the Coggeshall Conservation Area. Their poor condition is obvious, particularly the largest building, Building 1, which abuts Vane Lane.

5.4 Concerns have been expressed in the past regarding the condition of the buildings, in particular from the danger of slates being blown off the buildings in high winds.

5.5 On Boxing Day 2021, the Council's Building Control Team were alerted to the potential danger following incidents of falling slates. A meeting was arranged with a Trustee of the Hollington's Trust to discuss the future of the buildings and their risk to public safety.

5.6 Safety fencing has been erected and the footpath immediately outside the site closed by ECC Highways. The Trust was advised by Building Control to obtain a Structural Report so that the structure could be assessed. This was produced in January 2022 and submitted to Building Control. The report highly recommended that Building 1 should be demolished and rebuilt to comply with current design standards and building regulations.

5.7 The Hollington's Trust has advised that it would not be viable or appropriate to rebuild the factory building in the absence of a viable commercial use and would aim to redevelop the entire site.

5.8 As well as the poor condition of the roof, there has been an arson attempt at the building, which is continuing to deteriorate.

## 6. PROPOSAL

6.1 This application seeks planning permission for the demolition of Building 1 under the terms of S74 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as the building is in a Conservation Area. S196D of the Town and Country Planning Act 1990 sets out that it is an offence for a person to carry out or cause or permit to be carried out relevant demolition without the required planning permission, or to fail to comply with a condition or limitation if planning permission is granted.

6.2 The application is accompanied by a Structural Appraisal and Demolition Sequence of Building 1.

6.3 The Structural Appraisal was informed by a visit to the site, including an internal inspection and is accompanied by annotated photographs. It is apparent that water, moisture and condensation have percolated into the roof structural elements and into the brick walls and mortar.

6.4 The roof slates are supported by timber roof boards which are supported by timber purlins which in turn are supported by a timber truss roof system called queen post trusses. These are supported at each end by piers spaced at 5m centres.

6.5 The front and rear gables are high and are susceptible to lateral instability under wind loading. The purlins that support the roof timber panels, lace the queen post trusses together. They are also propping up the front and rear gables, providing lateral stability.

6.6 Whilst it is recommended that all the roof slates are removed, this would expose the other roof structural members to the elements. In the Engineer's view there is already an imminence of uncontrolled collapse of some of the roof structural members because their material strength and structural integrity is compromised. In view of this, it is recommended that the roof elements are also removed. However, the removal of the roof would mean that the front and rear gables would lose their lateral support and become unstable.

6.7 The report therefore recommends that the front and rear gables are removed. A sequence of demolition is recommended requiring the removal of the slates and a façade protection scheme installed inside the building due to its close proximity to the footpath edge. Once in place, the roof structural members can be removed.

6.8 Once the gables are demolished the perimeter walls can be removed. It is pointed out that they are not structurally viable, exhibiting cracks on the walls and an abundance of missing bricks and mortar. The lower levels of the walls are soaked, indicating that the damp course is compromised. The



lintels forming the windows in every bay have also cracked as their lateral restraint straps have rusted.

- 6.9 The Appraisal concludes that it would not be financially prudent to repair the building to a condition where it would be fully compliant with current design standards and the building regulations. It is recommended therefore that the building is demolished and rebuilt.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 ECC Archaeology

- 7.1.1 No objection is raised subject to conditions requiring historic building recording and the submission of the report within 6 months of completion.

### 7.2 ECC Historic Buildings Consultant

- 7.2.1 Does not support the proposal as the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure that new development will proceed after the loss has occurred should be resisted.

- 7.2.2 It is considered that the wholesale loss of Building 1 would directly affect the non-designated heritage asset amounting to a high level of harm, making Paragraph 203 of the National Planning Policy Framework (NPPF) relevant. Furthermore, it is considered that the partial loss of the non-designated asset would fail to preserve or enhance the character and appearance of the Coggeshall Conservation Area, contrary to Paragraph 206 of the NPPF and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### 7.3 BDC Building Control

- 7.3.1 Comment that having reviewed the Structural Appraisal and visiting the site, it is advised that it is practical and the best/safe option for the building to be demolished. An application under S80 of the Building Act will be required to cover the Building Regulations.

## 8. PARISH / TOWN COUNCIL

### 8.1 Coggeshall Parish Council

- 8.1.1 The Parish Council objects to the proposal and concurs with the representation submitted on its behalf by the Coggeshall Neighbourhood Plan Sub-Committee, and the response from the Built Heritage Consultant at Place Services. As demonstrated, the Hollington's buildings are an extremely important part of Coggeshall's history, and every effort should be made to retain and preserve as much of the structure and fabric of the buildings as possible. Future treatment of the buildings and site can then be explored. The demolition of Building 1, without any future plans being

available would represent a permanent loss and pave the way for the demolition of the rest of the site, much to Coggeshall's detriment.

## 9. REPRESENTATIONS

### 9.1. Coggeshall Neighbourhood Plan Sub Committee

9.1.1 As referred to above, the Coggeshall Neighbourhood Plan Sub Committee objected to the proposal. The Neighbourhood Plan Sub-committee emphasises that whilst it is recognised that a solution is required and that future use as a factory is most unlikely, they object to the demolition without an agreed proposal for the whole site. This needs to take account of the significance of the current building to the history of textile production in Coggeshall. They indicate that they would like to offer to be a willing partner to discuss how this could be planned and delivered at speed as they have had experience with other sites.

### 9.2 Support Comments

9.2.1 Two letters of support have been received from the residents at 51 Queen Street, Coggeshall and 75 Queen Street, Coggeshall, which can be summarised as follows:

- The building is now a dangerous and unsightly and clearly poses a risk to public safety in its current condition. We welcome any action to resolve the problems on this site, including demolition of this and the other buildings on the site and support this application.

- We hope that any demolition on this site will not result in an open building site being left for a prolonged period of time before steps are taken to rebuild or redevelop the site and urge you to consider any conditions that can be imposed to ensure this.

- There are several houses in Queen Street, near the factory, who are impacted by the factory. Many are car owners who struggle to park in the narrow part of the road.

- Any demolition of the building and the clearance of the site much be fenced and made secure in order that unrestricted use of the site and parking is prevented.

### 9.3 General Comments

9.3.1 Two letters of representation, neither objecting or supporting the application, have been received which can be summarised as follows:

- The future of the Hollingtons site has been of great local concern since the factory closed down. Additionally, growing concern has also arisen due to safety issues and the total failure to prevent the deterioration of the building and site.

- While the application attempts to present some temporary solution to the safety and structure of Building 1, very similar issues with Buildings 2 and 3 are not addressed, either for concurrent or for potential future action.

- Together with any proposed safety and remedial work, there is the importance of the associated impact on the neighbourhood. This involves issues such as access, local and workmans car and vehicle parking, hours of work, noise, safety, security, site management etc.

- Whilst clearly safety and interim and new development of the site needs urgent attention, it is strongly submitted that any proposals should address: the whole site – all three buildings; both short term measures and long term development; the impact on the Conservation Area and neighbourhood, both of any initial work and of subsequent intentions; necessary restrictions and controls of the work and the development.

- Council should consider the opportunity to support any move that reinstates parking (10-12 parking spaces on area of public roads, Vane Lane/Church Street, that cannot be used because of the unstable building. Ask that the Council considers the opportunity to maximise parking for local residents and not for the factory to become a residential space affecting current home-owners who already have to 'fight' for parking.

- It would be a shame to see the entire factory be demolished, but it is apparent that the factory area that was recently damaged in a fire is not fit for restoration.

## 10.1 PRINCIPLE OF DEVELOPMENT

### 10.1 National Planning Policy Framework

10.1.1 Planning law requires that applications for planning permission shall be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF must be taken into account in preparing the development plan, and is a material consideration in planning decisions.

10.1.2 The site is located within a designated Conservation Area and although the buildings are unlisted they are considered to be non-designated heritage assets under the terms of the NPPF. Paragraph 189 of the NPPF indicates that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

10.1.3 Paragraph 194 of the NPPF states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.

- 10.1.4 Paragraph 196 of the NPPF indicates that where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.
- 10.1.5 Paragraph 199 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.
- 10.1.6 Paragraph 200 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 10.1.7 Paragraph 201 of the NPPF indicates that where here 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.
- 10.1.8 Paragraph 203 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 or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 10.1.9 Paragraph 204 of the NPPF indicates that local planning authorities 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.
- 10.1.10 Paragraph 205 of the NPPF requires developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

10.1.11 Paragraph 206 of the NPPF requires Local planning authorities to look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance.

## 10.2 The Development Plan

10.2.1 Policy LPP53 of the Adopted Local Plan states that the Council will encourage the preservation and enhancement of the character and appearance of designated Conservation Areas and their settings. These include the buildings, open spaces, landscape and historic features and views into, out from and within the constituent parts of designated areas. Built or other development within or adjacent to a Conservation Area and affecting its setting will be permitted provided that all the following criteria are met:

- a. Where the proposal enhances the character, appearance and essential feature of the Conservation Area or its setting
- b. Details of existing buildings which make a positive contribution to the character and appearance of the Conservation Area will be retained
- c. Buildings are of high quality and appropriate to the local context.

10.2.2 Policy LPP54 of the Adopted Local Plan states that the demolition of an unlisted building or structure in a Conservation Area will only be granted in the most exceptional circumstances, where all the following criteria are fully satisfied:

- a. Its removal would not have a negative or neutral impact on the street scene
- b. The structure to be demolished makes a negative or neutral contribution to the character or appearance of the Conservation Area
- c. Its removal would be beneficial to the local environment or infrastructure
- d. A detailed redevelopment scheme is included and approved as part of the demolition proposal which would preserve or enhance the character or appearance of the area.

## 10.3 Coggeshall Neighbourhood Plan

10.3.1 Policy 13 of the Coggeshall Neighbourhood Plan indicates that support will only be given for development in Conservation Areas if the proposal protects, preserves or enhances such areas, with similar caveats to the NPPF and the Council's Development Plan.

## 11.1 ASSESSMENT

11.1.1 While it is apparent that the condition of the building means that it is not making a contribution in terms of the visual amenity of the area, the proposal is not compliant with the relevant criteria as set out in the NPPF

and the policies of the Development Plan, as there is no detailed redevelopment scheme in place. Accordingly, the Historic Buildings Consultant does not support the demolition of the building in isolation. However, there are other material considerations that are relevant to this proposal, namely the Construction Appraisal and the powers conferred on the Council via the Building Act 1984. The responsibility for dealing with dangerous or defective buildings is within the gift of the Council's Building Regulations Team. Planning permission is required as the building is within a Conservation Area.

11.1.2 The Construction Appraisal submitted with the application states that the building is beyond economic repair and this is not disputed by the Council's Building Regulations Team who have commented that the person responsible for the building has been co-operative and actively seeking to reduce the risk such as falling tiles etc, and remove the danger. However this is only a short term solution as the building will continue to deteriorate as per the engineer's report.

11.1.3 Section 76 of the Building Act 1984 states the following:

*(1) If it appears to a local authority that –*

- (a) any premises are in such a state (in this section referred to as a "defective state") as to be prejudicial to health or a nuisance, and*
- (b) unreasonable delay in remedying the defective state would be occasioned by following the procedure prescribed by section 80 of the Environmental Protection Act 1990, the local authority may serve on the person on whom it would have been appropriate to serve an abatement notice under the said section 93 (if the local authority had proceeded under that section) a notice stating that the local authority intend to remedy the defective state and specifying the defects that they intend to remedy.*

*(2) Subject to subsection (3) below, the local authority may, after the expiration of nine days after service of a notice under subsection (1) above, execute such works as may be necessary to remedy the defective state, and recover the expenses reasonably incurred in so doing from the person on whom the notice was served.*

*(3) If, within seven days after service of a notice under subsection (1) above, the person on whom the notice was served serves a counter-notice that he intends to remedy the defects specified in the first-mentioned notice, the local authority shall take no action in pursuance of the first-mentioned notice unless the person who served the counter-notice—*

- (a) fails within what seems to the local authority a reasonable time to begin to execute works to remedy the said defects, or*
- (b) having begun to execute such works fails to make such progress towards their completion as seems to the local authority reasonable.*

11.1.4 Section 77 states:

*(1) If it appears to a local authority that a building or structure, or part of a building or structure, is in such a condition, or is used to carry such loads, as to be dangerous, the authority may apply to a magistrates' court, and the court may -*

- (a) where danger arises from the condition of the building or structure, make an order requiring the owner thereof—*
  - (i) to execute such work as may be necessary to obviate the danger or,*
  - (ii) if he so elects, to demolish the building or structure, or any dangerous part of it, and remove any rubbish resulting from the demolition, or*
- (b) where danger arises from overloading of the building or structure, make an order restricting its use until a magistrates' court, being satisfied that any necessary works have been executed, withdraws or modifies the restriction.*

*(2) If the person on whom an order is made under subsection (1)(a) above fails to comply with the order within the time specified, the local authority may -*

- (a) execute the order in such manner as they think fit, and*
- (b) recover the expenses reasonably incurred by them in doing so from the person in default, and, without prejudice to the right of the authority to exercise those powers, the person is liable on summary conviction to a fine not exceeding level 1 on the standard scale.*

11.1.5 The application for planning permission has been submitted on the advice of Officers as demolishing the building without such a consent would constitute an offence, contrary to S196D of the Town and Country Planning Act 1990. As referred to above, it has become apparent that the buildings are deteriorating, with Building 1 being the worst affected.

11.1.6 The Hollington's factory buildings have been unused since 2013. A complaint was received by the Council's Enforcement Team regarding falling slates, reference 18/00022/GEN4, however, this could not be progressed because as the building is not listed there is no direct action that could be taken under the Planning Acts to repair the building.

11.1.7 Pre-application advice was sought by the Applicant in 2020 concerning the proposed redevelopment of the site. While no further progress has been made due to the COVID19 Pandemic, the Applicant has indicated that it is intended the site should be redeveloped. An approach has also been made to the Council in terms of the danger posed by the building with the applicant showing willingness to co-operate.

11.1.8 The concerns expressed by the Parish Council, the Neighbourhood Plan Sub-Committee and others are noted, and there is no dispute that something needs to be done to address the amenity and safety issues

arising from the condition of the building. However, there is no mechanism to secure the retention of the building other than by the refusal of planning permission for its demolition. This would not prevent the further deterioration of the building or the likely hazard it presents to the safety of members of the public.

- 11.1.9 Although there is no planning permission in place regarding the redevelopment of the site, should an application be submitted in the future, the Local Planning Authority would still have the ability to control how the site would be developed and be able insist that the scheme would be of high quality and be respectful of the context as regard must be had to the history and context of the site in accordance with the NPPF and adopted policy in the Adopted Local Plan.
- 11.1.10 It is regrettable that an alternative use has not yet been found for the building. However, due to its location and the constraints of the site, it is considered unlikely that a commercial use could be found for the buildings. Alternatively, converting the buildings to a residential use would also be difficult due to the site's constraints, which arise from the lack of space within the curtilage of the buildings to provide vehicle parking and private amenity space, therefore some demolition is likely to be required to achieve an appropriate high quality redevelopment in any event. In the meantime the building continues to deteriorate to the detriment of the amenity of the area and safety of the public.
- 11.1.11 No suggestion has been made of deliberate neglect on the behalf of the owner. While the condition of the building should not be taken into account in accordance with Paragraph 196 of the NPPF, it is clear that action has to be taken where it has been identified that a building is in a dangerous condition with an imminent risk to public safety.

#### Heritage Balance

- 11.1.12 As referred to above, the Historic Buildings Consultant considers that the demolition of Building 1 would result in a high level of harm to the designated heritage asset being the Conservation Area, and would fail to preserve or enhance the appearance of the Conservation Area.
- 11.1.13 Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 11.1.14 In this case it is considered, for the aforementioned reasons, that the public benefits of the proposal, primarily public safety, outweigh the harms to the designated heritage asset. Accordingly, the harm arising from both the designated and non-designated heritage asset weighs against the proposal and must be considered in the overall planning balance.



## 12. PLANNING BALANCE AND CONCLUSION

- 12.1 The building is not listed and as such the Council cannot seek to undertake work themselves to preserve and maintain the building. However, the Council can seek to take action under the Building Act 1984 to require the owner to take action necessary to remove the danger or it can take direct action and reclaim the costs of doing so. The applicant has been co-operative in seeking a solution to this problem both in the interests of public safety and the impact of its appearance on the Conservation Area.
- 12.2 The submitted technical reports have concluded that the building is in a condition which is beyond economic repair. Furthermore Officers are of the view that to facilitate a high quality redevelopment of the site it is likely that the demolition of this building would be appropriate anyway.
- 12.3 Whilst it is regrettable that there is currently no associated redevelopment plan in place and that this application is necessary, given the absence of any powers under the Planning Acts with regard to unlisted buildings in Conservation Areas and the risk of danger to the health and safety of members of the public, it is concluded that this outweighs the level of harm to the appearance of the Conservation Area. However, the demolition of the building would not prevent the Council seeking to negotiate a high quality solution in terms of the future of the site. Conditions are suggested requiring Building Recording, therefore, it is recommended that planning permission be granted.

## 13. RECOMMENDATION

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

APPENDIX 1:

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

Approved Plan(s) & Document(s)

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Location Plan		
Block Plan		
Other	Structural Appraisal	

Condition(s) & Reason(s)

Condition 1

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

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

Condition 2

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

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

Condition 3

No demolition of any kind shall take place until the applicant has secured the implementation of a programme of historic building recording in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

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

Condition 4

Within six months of the completion of the fieldwork, an approved historic building report shall be submitted to and approved in writing by the Local Planning Authority.

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

Condition 5

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  
Sundays, Public and Bank Holidays - no work

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

#### Condition 6

The demolition shall be undertaken in accordance with the Demolition Sequence set out in the submitted Structural Appraisal.

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

#### Informative(s)

Your attention is drawn to Conditions 3 and 4 of this planning permission and that there may be archaeological remains on the site. Any financial implications resulting from the need for archaeological investigation and subsequent protection measures are the responsibility of the developer/applicant. In respect of these requirements, you are advised to contact the Essex County Council, Historic Environment Branch (Teresa O'Connor, 01245 437638).

#### Positive and Proactive Statement

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

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP47	Built and Historic Environment
LPP53	Conservation Areas
LPP54	Demolition in Conservation Areas
LPP57	Heritage Assets and their settings

#### Coggeshall Parish Neighbourhood Plan 2019-2033

Policy 13 Protecting and Enhancing our Heritage

#### Other Material Considerations

The Building Act 1984

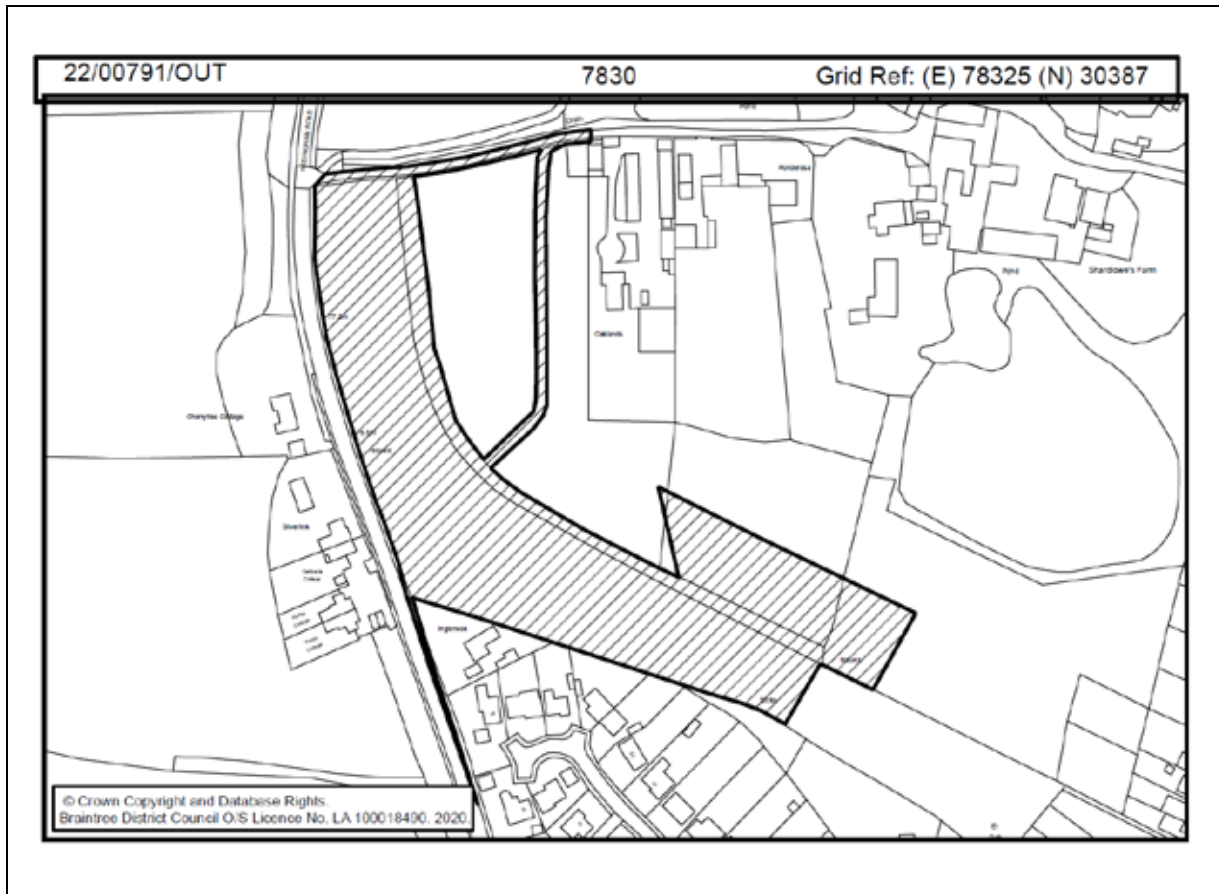
APPENDIX 3:  
SITE HISTORY

None.

**Agenda Item: 5c**

<b>Report to:</b> Planning Committee	
<b>Planning Committee Date:</b> 9th August 2022	
<b>For:</b> Decision	
<b>Key Decision:</b> No	<b>Decision Planner Ref No:</b> N/A
<b>Application No:</b>	22/00791/OUT
<b>Description:</b>	Outline application with all matters reserved except access for the erection of 14 dwellings (9 open market and 5 social affordable).
<b>Location:</b>	Land East Of Hedingham Road, Gosfield
<b>Applicant:</b>	Mr Paul Denney, Stockplace Investments Limited C/O Agent
<b>Agent:</b>	Mr Melville Dunbar, Melville Dunbar Associates, Mill House, Kings Acre, Coggeshall, CO6 1NY
<b>Date Valid:</b>	25th March 2022
<b>Recommendation:</b>	It is RECOMMENDED that the following decision be made: § Application REFUSED for the reasons outlined within Appendix 1 of this Committee Report.
<b>Options:</b>	The Planning Committee can: a) <b>Agree</b> the Recommendation b) <b>Vary</b> the Recommendation c) <b>Overtturn</b> the Recommendation d) <b>Defer</b> consideration of the Application for a specified reason(s)
<b>Appendices:</b>	<b>Appendix 1:</b> Reason(s) for Refusal Submitted Plan(s) / Document(s)
	<b>Appendix 2:</b> Policy Considerations
	<b>Appendix 3:</b> Site History
	<b>Appendix 4:</b> Previous Appeal Decision
<b>Case Officer:</b>	Juliet Kirkaldy For more information about this Application please contact the above Officer on: 01376 551414 Extension: 2558, or by e-mail: <a href="mailto:juliet.kirkaldy@braintree.gov.uk">juliet.kirkaldy@braintree.gov.uk</a>

**Application Site Location:**



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



	<p>The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).</p> <p>The consideration of this application has not raised any equality issues.</p>
<p><b>Background Papers:</b></p>	<p>The following background papers are relevant to this application include:</p> <ul style="list-style-type: none"> <li>§ Planning Application submission: <ul style="list-style-type: none"> <li>§ Application Form</li> <li>§ All Plans and Supporting Documentation</li> <li>§ All Consultation Responses and Representations</li> </ul> </li> </ul> <p>The application submission can be viewed online via the Council’s Public Access website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a> by entering the Application Number: 22/00791/OUT.</p> <ul style="list-style-type: none"> <li>§ Policy Documents: <ul style="list-style-type: none"> <li>§ National Planning Policy Framework (NPPF)</li> <li>§ Braintree District Local Plan 2013 - 2033</li> <li>§ Neighbourhood Plan (if applicable)</li> <li>§ Supplementary Planning Documents (SPD’s) (if applicable)</li> </ul> </li> </ul> <p>The National Planning Policy Framework can be viewed on the GOV.UK website: <a href="http://www.gov.uk/">www.gov.uk/</a>.</p> <p>The other abovementioned policy documents can be viewed on the Council’s website: <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a>.</p>

## 1. EXECUTIVE SUMMARY

- 1.1 The application site is approximately 1.8 hectares in size. It lies within the countryside to the north east of Gosfield abutting the defined development boundary. It is currently a vacant area of land comprising of scrubland/meadow and comprises an 'L' shape form.
- 1.2 The site is situated to the east of Hedingham Road (A1017) and to the south west of Shardlowes Farm. The site is situated within the setting of Grade II Listed Shardlowes Farm barn. To the south of the site is Highlands a residential road. The site abuts the rear gardens of these residential properties. To the north east of the site is an existing commercial use and outdoor storage. There is an existing access to the north of the site from the A1017 to the commercial use. To the east of the site is open fields and beyond this are the sporadic residential properties on Halstead Road. There is a Public Right of Way (PROW 82\_12) to the north of the site which connects Hedingham Road with Halstead Road.
- 1.3 Planning permission has previously been refused for 135 dwellings on the site encompassing a wider site area (Application Reference 18/00279/OUT). The application was dismissed on appeal by the Planning Inspectorate (APP/Z1510/W/19/3228753). This appeal decision is a material consideration in the determination of this application. A copy of the appeal decision is included within Appendix 4.
- 1.4 This application seeks Outline Planning Permission, with all matters reserved except for access, for the development of 14 dwellings (9 open market and 5 social housing).
- 1.5 The application site is not allocated for development and lies beyond any designated town or village development boundary in the Adopted Local Plan. This weighs against the development in the Planning Balance, along with the harm to the character and appearance of the local area due to the significant loss of trees and hedging along Hedingham Road, the poor proposed amenity space for prospective occupiers and the detrimental impact on the setting of a Grade II heritage asset. In addition, planning contributions for health, open space and affordable housing have not been secured by a completed Section 106 legal agreement.
- 1.6 When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal are clearly and significantly outweighed by the harms, including the harm arising from the conflict with the Development Plan, such that planning permission should be refused in line with the Development Plan.

2. INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

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

3. POLICY CONSIDERATIONS

§ See Appendix 2

4. SITE HISTORY

§ See Appendix 3

5. DESCRIPTION OF THE SITE AND SITE CONTEXT

5.1 The application site lies within the countryside to the north east of Gosfield abutting the defined development boundary. It is currently a vacant area of land comprising of scrubland/meadow and comprises an 'L' shape form. It is set within a valley, at a lower level to the road. There is an established hedgerow to the western boundary of the site. The site is situated to the east of Hedingham Road (A1017) and to the south west of Shardlowes Farm. The site is situated within the setting of Grade II Listed Shardlowes Farm barn outside of the designated Conservation Area. To the south of the site is Highlands a residential road comprising of predominately 1.5 storey dwellings. The site abuts the rear gardens of these residential properties. To the north east of the site is an existing commercial use and outdoor storage. There is an existing access to the north of the site from the A1017 to the commercial use. To the east of the site is open fields and beyond this are the sporadic residential properties on Halstead Road. The site measures approximately 1.8 hectares in size. A ditch runs along the southern and western boundary of the site. There is a Public Right of Way (PROW 82\_12) to the north of the site which connects Hedingham Road with Halstead Road.

5.2 Planning permission has previously been sought for 135 dwellings on the site encompassing a wider site area (Application Reference 18/00279/OUT). The application was refused for the following reasons:

1. *The site is located in the countryside, outside any defined village envelope as identified in the adopted Local Plan Review and adopted Core Strategy. The site is disconnected from the village centre facilities which would limit walking or cycling and would place reliance on travel by car. The scale of the development is out of context and at odds with the existing settlement and would result in harm to the landscape approach of the village and the wider rural character and appearance of the locality.*

2. *The development would result in harm to the setting of a designated heritage asset.*
  3. *Insufficient information has been submitted to adequately demonstrate that flood risk matters are addressed or that a suitable sustainable urban drainage system can be achieved.*
  4. *Insufficient information has been submitted to adequately demonstrate that the development would not adversely impact upon protected species.*
  5. *Policy CS2 of the Braintree District Core Strategy states that affordable housing will be directly provided by the developer within housing schemes. Policies CS10 and CS11 of the Core Strategy and Policy*
  6. *RLP138 of the Local Plan Review require proposals for new residential development to provide or contribute towards the cost of improvements to community facilities and infrastructure appropriate to the type and scale of development proposed. Braintree District Council has adopted an Open Space Supplementary Planning Document (SPD) which sets out the process and mechanisms for the delivery and improvement of open space in the Braintree District. These requirements would need to be secured through a S106 Agreement. In the absence of an obligation the proposal would conflict with the development plan.*
- 5.3 The application was dismissed on appeal by the Planning Inspectorate (APP/Z1510/W/19/3228753). This appeal decision is a material consideration in the determination of this application. A copy of the appeal decision is included at Appendix 4.
6. PROPOSAL
- 6.1 The application seeks outline planning permission with all matters reserved except for access, for the development of 14 dwellings (9 open market and 5 social affordable) and associated development.
- 6.2 Applications for outline planning permission seek to establish whether the scale and nature of proposed development would be acceptable to the Local Planning Authority, before a detailed proposal is put forward at the reserved matters stage.
- 6.3 The application is supported by the following documents:
- § Design and Access Statement
  - § Planning Statement
  - § Five Year Housing Land Supply Review
  - § Flood Risk Assessment
  - § Transport Assessment
  - § Arboricultural Report
  - § Tree Survey

- § Preliminary Ecological Appraisal
- § Protected Species Survey
- § Site Layout
- § Street Elevations

6.4 The application represents a departure from the Development Plan and has been advertised accordingly.

## 7. SUMMARY OF CONSULTATION RESPONSES

### 7.1 Anglian Water Services Ltd

7.1.1 The applicant should check for any Anglian Water assets which cross or are within close proximity to the site. Any encroachment zones should be reflected in site layout.

### 7.2 Essex Fire and Rescue

7.2.1 No objection. The following comments were made:

- Access routes and hardstanding should be capable of sustaining a minimum carrying capacity of 18 tonnes;
- The overall width of access should not be less than 3.7 metres;
- There should be adequate turning facilities.

### 7.3 Essex Police – Designing Out Crime

7.3.1 No apparent concerns regarding layout however to comment further detail such as lighting, boundary treatments and physical securing measures would need to be provided.

### 7.4 NHS

7.4.1 The proposed development is likely to have an impact on the services of surgeries which operate within the vicinity of the application site. GP practices do not have capacity for the additional growth resulting from this development and cumulative development in the area. The Planning Statement does not assess the impact of the proposed development on healthcare capacity or how any impact would be mitigated.

7.4.2 A financial contribution of £6,900 is requested in order to increase capacity for the benefit of patients at Elizabeth Courtauld Surgery. This may be achieved through any combination of extension, reconfiguration or relocation of premises and/or staff recruitment or training.

7.4.3 Affordable housing should be deliverable without reliance on public subsidy, should be accessed at ground floor level and should meet National Design Space Standards.

- 7.5      BDC Ecology
- 7.5.1    Holding objection due to insufficient ecological information on protected species (Bats).
- 7.6      BDC Housing Enabling Officer
- 7.6.1    The proposal would require 5 affordable dwellings to accord with Policy LPP21 of the Adopted Local Plan. Although details concerning the mix would be subject to a reserved matters application an indicative layout has been provided. The indicative mix below would be considered to match evidence of housing need:
- 2 x 2 bed 4 persons houses
  - 3 x 3 bed 5 persons houses
- 7.7      BDC Landscape Services
- 7.7.1    Concern about the change in character to the roadside setting on the approach into the village; the proposed setting and layout will lend a more urban feel to the locality that is not considered sympathetic to northern boundary of the village conservation area a little further south along Hedingham Road. Replacement planting offered by way of mitigation new planting will take many years to establish and flourish with suitable watering and aftercare.
- 7.8      BDC Waste Services
- 7.8.1    The collection distances are beyond the 20 metres deemed acceptable if we are not permitted to use the two shared driveways that extend off the main access road. Size 3 turning heads would be required at end of each driveway to facilitate turning of the 26 tonne collection vehicles.
- 7.9      ECC Highway Authority
- 7.9.1    No objection subject to conditions relating to submission of a Construction Management Plan, construction of the access, residential travel information pack.
- 7.10     ECC Historic Buildings Consultant
- 7.10.1    Amendments required before the scheme could be supported. Concern that the proposed footpath to the northeast would have a detrimental impact on the agrarian setting of the Listed building resulting in less than substantial harm. Therefore this element would need to be removed before the application could be supported.
- 7.11     ECC SUDS
- 7.11.1    No response received.

## 8. PARISH / TOWN COUNCIL

### 8.1 Gosfield Parish Council

8.1.1 Objection. The following comments were made:

- Outside of the development boundary;
- In a 40mph speed limit;
- Access on a blind bend;
- Impact on the river;
- Back land development.

## 9. REPRESENTATIONS

9.1 A site notice was displayed adjacent to the site for a 21 day period and immediate neighbours were notified by letter. 6 objection representations have been received.

9.2 In summary the following comments have been made:

### Environmental issues

- Concern regarding the impact on wildlife;
- Loss of natural habitats;
- The meadow is a natural basin and has previously flooded;
- Concern regarding flooding. Robust drainage and attenuation design would be require and future maintenance.

### Highway issues

- Speed limit on main road would need to be reduced to 30mph;
- Poor visibility at the access;
- The main road frequently floods;
- The proposed junction is located where the discharge outlet for the sewage treatment plants opposite the site;
- Concern children would be required to cross the road to get to bus stop for school;
- Pedestrians would need to walk along the main road to access schools and other village services;
- Concern regarding access on a blind corner;
- Vehicles currently speed along this section of road and do not adhere to speed limits;
- Existing road is narrow for volume of traffic and size of vehicles.

### Infrastructure issues

- Concern regarding impact on infrastructure capacity for schools and doctors surgery.

## Other issues

- Concern if application is permitted there will be further applications in future for extension;
- Loss of privacy due to overlooking;
- Gosfield has already contributed to requirement for new build.

## 10. PRINCIPLE OF DEVELOPMENT

### 10.1 National Planning Policy Framework (NPPF)

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

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

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

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

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



Supply. This will affect whether Paragraph 11 of the NPPF is engaged and consequently the weight that can be attributed to the Development Plan (see below).

## 10.2 5 Year Housing Land Supply

- 10.2.1 The Council publishes a 5 year housing land trajectory as of 31st March each year. The most recent position therefore is that of 31st March 2021. Within the published trajectory, the forecast supply amounted to a 5.34 year supply of housing based on a 5% buffer.
- 10.2.2 At its Full Council meeting on 22nd February 2021, Braintree District Council approved the adoption of the Shared Strategic Section 1 Local Plan. On its adoption, the Council must meet the housing requirement set out in that Plan. This is a minimum of 14,320 homes between 2013-2033 or an annual average of 716 new homes per year. This replaces the previous consideration of housing need based on the Standard Methodology.
- 10.2.3 The latest Housing Delivery Test (HDT) results were published in January 2022. The new results (which include an allowance for the impact of the current pandemic) confirm that Braintree District achieved 125% supply against target and the usual 5% buffer is maintained. This applies from the day of publication of the results.
- 10.2.4 The Council's Housing Land Supply position has recently been contested as part of an appeal at Land off Brain Valley Avenue, Black Notley (Appeal Reference: APP/Z1510/W/21/3281232). Within the appeal decision dated 20th January 2022, the Inspector concluded at Paragraph 54 that the housing supply 2021-2026 would be in excess of the 5,352 requirement; and that therefore the Council can demonstrate an up-to-date housing land supply and the titled balance pursuant to Paragraph 11d) of the NPPF is not engaged.
- 10.2.5 Accordingly, given all the evidence before it, including the housing requirement from the Braintree District Local Plan 2013 - 2033 and the use of a 5% buffer, and having regard to the above appeal decision, the Council considers that the current 5 Year Housing Land Supply for the District is 5.1 years.

## 10.3 The Development Plan

- 10.3.1 The Council's statutory Development Plan consists of the Braintree District Local Plan 2013 - 2033. Section 2 of the Plan has been found sound by the Planning Inspector and adopted by Full Council on the 25th July 2022.
- 10.3.2 The application site is located outside of a designated development boundary and as such is located on land identified as 'countryside' in the Adopted Local Plan.

- 10.3.3 Paragraph 3.8 of the Adopted Local Plan states that *'in order to protect the intrinsic beauty of the countryside, development here is normally restricted to that which support countryside uses'*. Policy LPP1 of the Adopted Local Plan states, *'Development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside'*.
- 10.3.4 The application site is not proposed for allocation for development in the Adopted Local Plan. The proposed development is therefore contrary to it, in particular Policy LPP1 of the Adopted Local Plan which states that outside development boundaries development will be strictly controlled to uses appropriate to the countryside.

## 11. SITE ASSESSMENT

### 11.1 Location and Access to Services and Facilities

- 11.1.1 Paragraph 124 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.
- 11.1.2 Policy SP1 of the Adopted Local Plan states the Local Planning Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF.
- 11.1.3 Policy SP3 of the Adopted Local Plan relates to the spatial strategy for North Essex. It states that existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan Period. Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and where relevant, across the wider strategic area.
- 11.1.4 It goes onto state that future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to converse their setting. Re-use of previously developed land within settlements is an important objective, although this will be assessed within the broader context of sustainable development principle, particularly to ensure that development locations are acceptable by a choice of means of travels.
- 11.1.5 The Adopted Local Plan sets out that the broad spatial strategy for the Braintree District should concentrate development on the town of Braintree, Witham and the A12/Great Eastern Mainline corridor and Halstead.
- 11.1.6 Policy LPP42 of the Adopted Local Plan states that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing

networks. Paragraph 105 of the NPPF states, *'The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health'*.

- 11.1.7 Policy SP7 of the Adopted Local Plan seeks to create, *'well connected places that prioritise the needs of pedestrians, cyclists and public transport services above the use of the private car'*.
- 11.1.8 Gosfield is identified as a 'Third Tier' village in the Adopted Local Plan. Paragraph 5.10 of the Adopted Local Plan states, *'these are the smallest villages in the District and lack most of the facilities required to meet day to day needs. They often have very poor public transport links and travel by private vehicle is usually required. When considering the tests of sustainable development, these will not normally be met by development within a third tier village'*.
- 11.1.9 Gosfield has a Church, primary school, private school, public house, village hall, village shop and recreation ground. However, there are no facilities such as a supermarket, bank, doctor's surgery or petrol station which may be required for day to day living.
- 11.1.10 The closest towns are Halstead (approximately 3 miles) and Braintree (approximately 5 miles) where a good range of services and facilities can be found. Neither is within comfortable or reasonable walking distance of the site and there are no cycle ways between these locations. Access to these towns would be via busy roads (A131 and Hedingham Road) which lack a pavement. The distance and unappealing walking/cycling environment is likely to deter future residents from walking or cycling to local facilities and increase reliance on travel by car to access everyday facilities and services.
- 11.1.11 There are bus services from Gosfield to Braintree/Halstead and bus stops along Halstead Road which is within walking distance of the site. The 38 / 38A service departs half hourly/ hourly from Gosfield Corner (Monday to Friday from 06:14am until 18:37pm) and provides a service to Braintree and Witham. A similar service is offered on a Saturday with no service on a Sunday. A half hourly/hourly service is also provide to Halstead (Monday to Friday from 05:47am until 18:05pm) with a similar service offered on a Saturday. The 352 bus service provides links to Halstead, Braintree, Great Leighs and Chelmsford (including railway station) and Broomfield Hospital. This service runs twice a day Monday to Saturday and every two hours on a Sunday.
- 11.1.12 The application is supported by a Transport Assessment (prepared by Stockplace Investments Ltd, Feb 2022). Chapter 4 of the report summarises walking distances to local facilities and the bus services available.

- 11.1.13 Although there are limited walking / cycling opportunities to access the main towns for services and facilities there are regular bus services offering an alternative sustainable mode of transport for prospective future occupants to travel to these larger centres. There is also an opportunity to connect to rail services in Witham, Braintree and Chelmsford. However, given the limited services available in the village and limited employment opportunities it is accepted that there is still likely to be a reliance on the private vehicle to access employment and a full range of services.
- 11.1.14 It has previously been concluded by a Planning Inspector in considering the location of Gosfield that it is *'one of the more locationally sustainable of the 'other villages' given the level of service provision it has. Indeed such a conclusion has been reached by my colleagues in considering other local housing schemes'* (Appeal reference APP/Z1510/W/20/3247371).
- 11.1.15 The Planning Inspector who considered the previously refused scheme on the application site concluded that (Appeal reference APP/Z1510/W/19/3228753), *'The services in Gosfield would be accessible on footpaths along Hedingham Road and Halstead Road. I appreciate that the Council are concerned about the use of an unmade, unlit and wooded public right of way to link the majority of the dwellings to the main roads. As part of my site inspection I walked along the footpath and both Halstead and Hedingham Road. The route into Gosfield would involve a relatively short section of the main road. Nonetheless, I agree with the appellants that the footpath is surfaced, of a reasonable width and has a verge. As such it offers a choice to future residents for access to the village. 17. The bus stops are in a reasonable walking distance of the site. The village is served by four bus routes which offer a service to Halstead and Braintree and other nearby settlements. The appellants argue that the services provide suitable access to daily services and facilities, as well as employment opportunities in larger settlements and other locations along the route. The services run regularly Monday to Friday and on Saturdays. The services would therefore provide reasonable access to daytime shopping, leisure, employment and services for future residents 6 days a week.'*
- 11.1.16 The Planning Inspector concluded that, *'Consequently, whilst I recognise future residents would have some degree of choice over their mode of transport, that choice would not be to a range of services when choosing to walk or cycle and Gosfield is identified as an 'other village'. Therefore, to offer a genuine choice I consider that the sites location would need to be balanced in favour of sustainable transport options, which overall it would not be. As such, in this case it is probable that future residents would be largely reliant on private car in order to support services within nearby villages and maintain or enhance the vitality of those communities and to access services further away. The proposal would thus fail to contribute towards managing sustainable patterns of growth and the proposal would not be consistent with the character of the settlement. I conclude, therefore, that the proposal would not be a suitable location for new housing. It would therefore be in conflict with CS policy CS 7.'*

11.1.17 Therefore, in terms of accessibility this weighs against the proposal in the overall planning balance and is contrary to Policy SP7 of the Adopted Local Plan although to a lesser extent given the regular bus service available and limited services/facilities available in the village.

## 11.2 Appearance, Layout and Scale

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

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

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

11.2.4 In addition to this, Policy LPP52 of the Adopted Local Plan also seeks to secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment.

11.2.5 This is an outline application where design, layout, scale and landscaping are reserved matters. However, an indicative layout plan has been submitted as supporting documentation.

11.2.6 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 of accommodating the number of dwellings proposed along with suitable space for policy compliant level of car parking, garden space, open space and SuDs.

11.2.7 The indicative layout plan proposes a new access off Hedingham Road with a 'T' junction. The access would be located within the 40mph speed limit section of Hedingham Road. The access road splits to provide access to the proposed dwellings plots 1 to 9 to the north and plots 10 to 14 to the south via a proposed 6 metre wide shared road surface with size 3 turning heads.

11.2.8 It is proposed to further extend the access from Hedingham Road to provide a new access road to Oaklands and Shardlowes Farm. The submitted Planning Statement states in Paragraph 3.2, *'this would enable the existing substandard access to the north west of the site to be closed. This would subsequently only serve a single dwelling 'Honeywood.'*

- 11.2.9 The indicative layout plan proposes a mixture of semi-detached / detached dwellings. Plots 1 to 8 are located to the north of the site to the east of the proposed shared surface road. Plot 9 is proposed on the corner adjacent to the access into the site from Hedingham Road. The indicative layout plan refers to new hedge planting along the proposed road abutting Hedingham Road (clear of sight lines) and also to the north and east of the site to the rear gardens of the proposed dwellings (Plots 1 to 8). Plots 1 to 4 are proposed for social/affordable accommodation, Plot 5 is proposed as shared ownership. Plots 1 to 9 are proposed as 3 bedroom dwellings.
- 11.2.10 To the south of the site, Plots 10 to 14 are proposed with their amenity space backing onto the existing gardens for residential properties along Highlands with the proposed private drive to the north. Plots 6 to 14 are proposed as 3 x 3 bedroom, 1 x 4 bedroom and 5 x 5 bedroom detached dwellings. A possible exceedance area for SuDS is proposed to the north of Plot 13 and Plot 14.
- 11.2.11 Detailed elevations/floorplans have not been provided and thus cannot be assessed at this stage.
- 11.2.12 The Essex Design Guide refers to a minimum of 100sq.m of amenity space for 3+ bedroom dwellings. The proposed amenity space for each plot is not specified however, Officers are concerned that the proposed provision falls below the standard specified particularly for Plots 1 to 9.
- 11.2.13 The Urban Design Officer has raised concern regarding the inefficient use of the land providing 14 dwellings per hectare, short of the 30 dwellings per hectare required by the policy stating that, *'inefficiency and low density cannot be considered sustainable development'*.
- 11.2.14 Overall it is considered that the proposal would amount to an inefficient use of land. Furthermore it fails to demonstrate that sufficient amenity space would be provided for Plots 1-9 contrary to the NPPF, Policies SP7 and LPP52 of the Adopted Local Plan, and the Essex Design Guide.

### 11.3 Heritage Impact

- 11.3.1 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that when considering a grant of planning permission that affects a listed building special regard shall be given to the desirability of preserving its setting.
- 11.3.2 The NPPF states in Paragraph 195, *'Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal'*.

- 11.3.3 The NPPF further states in Paragraph 200, *'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:*
- a) *grade II listed buildings, or grade II registered parks or gardens, should be exceptional;*
- 11.3.4 Paragraph 206 of the NPPF refers to development within the setting of a heritage asset and states, *'Local planning authorities should look for opportunities for new development within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.'*
- 11.3.5 Policy LPP57 of the Adopted Local Plan seeks to preserve and enhance the immediate settings of heritage assets.
- 11.3.6 There is a Grade II listed barn (Shardlowes Barn) located approximately (200 metres) to the (north east of the site). It is a 17<sup>th</sup>/18<sup>th</sup> Century building which is considered to have been used a pest house.
- 11.3.7 The Historic Buildings Consultant has commented that, *'despite nearby modern buildings it is still possible to appreciate the barns historical position as part of the wider agrarian landscape'*. This reiterates a point made by the Planning Inspector in the previously refused scheme on the site (APP/Z1510/W/19/3228753), that, *'the barn remains relatively isolated and in an agrarian landscape which contributes significantly to its setting and how it is experienced'*. The Historic Buildings Consultant acknowledges that the scheme proposed is significantly reduced from the previously refused scheme and acknowledges that, *'whilst the site is within the setting of the Listed barn, it does not make the same important, beneficial contribution to the setting of the heritage asset, when compared to the other open fields to the east'*.
- 11.3.8 It is not considered that the scheme would have a detrimental impact on the Conservation area, given that the indicative layout plan proposes to retain vegetation along the western boundary of the site. Furthermore, the landscaping and appearance would be considered in detail at a reserved matters stage.
- 11.3.9 However, the Historic Buildings Consultant has raised concern regarding the proposed access that dissects through the historic field boundary and open fields leading to the north east of the site linking to the private road to the north stating, *'it has no justification. Considering the containment of the site the introduction of a metalled route or hard standing through the historic field boundary and open fields of the Listed buildings setting will have a detrimental impact on that setting'*. The Historic Buildings Consultant refers to the submitted Transport Assessment which states that

it is to provide access to Oaklands and Shardlows Farm, yet notes that these would continue to be accessible via the existing road.

- 11.3.10 It is noted that the Historic Buildings Consultant incorrectly refers to this as a 'footpath' access in the consultation response however, it is proposed as a road. The Transport Assessment states in Paragraph 3.5, *'in conjunction with the development proposal the link between the scrap yard/main body of the wider site and the existing substandard access off Hedingham Road would be closed off and the access would subsequently only serve the single residential dwelling known as Honeywood. The proposed access would be utilised to access/egress the scrap yard/main body of the site, a connection would be provided between the proposed access and the existing access road just south of the property known as Oaklands'*.
- 11.3.11 The Historic Buildings Consultant concludes that the scheme would need to be amended to remove the proposed access to the north east to retain the agrarian character of the remaining setting of the Listed building.
- 11.3.12 The proposed access road to the north east of the site would be detrimental to the setting of the Grade II listed building and therefore conflicts with the NPPF and Policy LPP57 of the Adopted Local Plan.

#### 11.4 Landscape and Visual Impact

- 11.4.1 The NPPF states in Paragraph 174, that planning policies and decisions should contribute to and enhance the natural and local environment recognising the intrinsic character and beauty of the countryside.
- 11.4.2 Policy LPP67 of the Adopted Local Plan states that proposals for new development should be informed by, and be sympathetic to the character of the landscape as identified in the Landscape Character Assessments. Development should not be detrimental to the distinctive landscape features of an area such as trees, hedges, woodlands, grasslands, ponds and rivers. Development which would not successfully integrate into the local landscape will not be permitted.
- 11.4.3 The site is situated within the F1 Gosfield Wooded Farmland area in the Braintree District Landscape Character Assessment. Key characteristics of the area includes, strong pattern of large and small woods, including ancient woodland and arable fields bounded by thick hedgerows with mature hedgerow trees and an open character. The overall sense of tranquillity within the character area is sensitive to change and potential new development. A suggested land management guideline is to conserve and enhance existing hedgerow pattern and strengthen through planting. Overall this character area has relatively high sensitivity to change.
- 11.4.4 A Landscape Visual Impact Assessment has not been provided with the application.



- 11.4.5 An indicative Street Elevation has been submitted (Drawing 1597-P002). This clearly shows the impact of the proposal when viewed from Hedingham Road, particularly the effect of removing hedgerow and trees to facilitate access and visibility splays (discussed further below Trees/Hedgerow section). At present the undeveloped nature of the site provides a gradual introduction into the built form of Gosfield. The established hedgerow and trees which in parts overhang Hedingham Road contribute to the rural character and soft transition between the countryside and edge of Gosfield. The removal of vegetation along Hedingham Road to accommodate visibility splays would have significant implications for this character.
- 11.4.6 The submitted proposal will extend development beyond the defined development boundary and will add to the general accretion of the built form into the rural countryside. It would create a sense of linear urban sprawl along Hedingham Road where it is currently devoid of buildings eroding the countryside setting of the village. The village announces itself in a fairly discrete and subtle manner this will be changed by the proposed layout introducing a more suburban character along Hedingham road which would create a greater sense of a larger settlement than exists within the current setting. Officers consider that this unnatural extension of Gosfield into the open countryside together with the removal of hedges/trees to facilitate access and visibility splays would have a significant and detrimental impact on the rural character along this part of Hedingham Road.
- 11.4.7 It is noted that the Planning Inspector referred to the Landscape Character in the appeal decision (APP/Z1510/W/19/3228753) acknowledging that, *'the appeal site sites within a primarily open landscape that provides a transition to the countryside beyond it to the south. In this regard it forms an integral part of the character of the edge of Gosfield and its setting within the wider landscape'*. The Planning Inspector specifically refers to the appeal site and relationship with Hedingham Road stating, *'travelling along Hedingham Road there are points where the appeal site and some of the existing dwellings would be appreciated together. The existing trees provide setting to the approach into the village against an open backdrop. I appreciate that the road is a busy A road and that within the site level changes may serve to limit the impact of new dwellings. Nonetheless, along Hedingham Road the scheme would extend built form into the countryside which would represent a marked change in character to the approach to the village'*.
- 11.4.8 The proposal would have a harmful impact on the character and appearance of the area and would fail to successfully integrate into the local landscape and enhance local distinctiveness. The proposal would be contrary to NPPF and Policy LPP67 of the Adopted Local Plan.

## 11.5 Trees and Hedgerows

- 11.5.1 The NPPF states in Paragraph 131, *'trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should seek to ensure... that existing trees are retained wherever possible'*.
- 11.5.2 Policy LPP65 of the Adopted Local Plan states, *'trees which make a significant positive contribution to the character and appearance of their surroundings will be retained unless there is a good arboricultural reason for their removal for example, they are considered to be dangerous or in poor condition'*.
- 11.5.3 Policy SP7 of the Adopted Local Plan states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. It goes on to state that new development should enhance the public realm through additional landscaping, street furniture and other distinctive features that help to create a sense of place.
- 11.5.4 The application is supported by a Preliminary Arboricultural Impact Assessment and Arboricultural Method Statement (prepared by J.L Denney dated 17.1.22), Tree Plan (reference 0122090/AIA and 0122090/TCP) and a Tree Schedule.
- 11.5.5 The Council's Landscaping Officer has been consulted and raised concern regarding the significant removal of roadside hedge and the impact on the character of the roadside setting on the approach into the village. Although replacement planting is offered by way of mitigation there is concern that this will take many years to establish and flourish with suitable watering and aftercare. The Landscaping Officer refers to other developments where landscaping planting have struggled to establish successfully due to dry summer conditions. The loss of character, habitat and an established wildlife corridor from the initial removal will take years to recoup and cannot demonstrate biodiversity net gain. Concern is also raised regarding the layout which creates an urban feel to the locality that is not considered sympathetic to northern boundary of village conservation area to south.
- 11.5.6 The Preliminary Arboricultural Impact Assessment refers to, *'twenty one standard trees, two groups, three areas and three hedges on site. These trees have been identified as the most likely to be affected by the proposals and construction activity.'*
- 11.5.7 The proposed access will require a suitable visibility splay (5.5 metre wide with 2.4 metre x 120 metre sight lines). The precise location of the access is shown on the submitted drawings Site Plan (1597-P001 E) including drawing Proposed Site Access in the Transport Assessment (IT2335/TS/02). The Preliminary Arboricultural Impact Assessment refers to, *'nine trees, one area, one group and two hedges required removal to permit development'*. It further states, in Paragraph 3.3 of the Arboricultural

Assessment, 'G1, T2, T3, T4, T6, T7, T8 and H1 require removal to facilitate visibility splays'. This includes 4 Ash trees, 3 Oak trees and a hawthorn, blackthorn, ash elder hedge.

11.5.8 The Arboricultural Impact Assessment refers to a site visit held on 6/1/22 where the quality of the trees were observed, '*trees on site are unmanaged and inaccessible to the public. Some trees line Hedingham Road and other overhand neighbouring properties. Most trees are of fair to poor quality with the exception of a few trees which are of good quality*'.

11.5.9 The submitted Tree Schedule refers to the health of the trees. Below, specifically focuses on those trees proposed to be removed to facilitate the development and achieve visibility splays:

- T1 - Ash (Little access, suspected dieback and fungal activity)
- T2 - Ash (Tree is dead)
- T3 - Ash (Dieback present)
- T4 - English Oak (Very suppressed, conflicts with overhead cables. 2017 survey shows no major visible defects).
- T5 - Ash (Good ecological value)
- T6 - Ash (Dieback present. 2017 survey, suggested tree had good form and appeared healthy in the crown)
- T7 - English Oak (Good form and healthy)
- T8 - Ash (poor form, no access. 2017 survey appeared to have a reasonable form)
- T9 - Ash (No change from 2017 survey where it was concluded tree has attractive shape overall and appears dense and healthy)
- T10 - Ash (Poor form dieback present. 2017 survey suggested well formed)
- T11 - Ash (Poor condition and dieback present)
- A1 - Blackthorn, Hawthorn, Ash, Dogwood, Elder (A mixed native species boundary, originally a hedge not managed).
- G1 - English Oak (No change from 2017 survey where it was concluded tree appears to be of good form and health which collectively offer much value to the site).
- H1 - Hawthorn, Blackthorn, Ash and Elder (No change from 2017 survey where it was concluded hedge could be managed to form a dense boundary feature again. Some dead trees present).
- H3 - Hawthorn, Blackthorn (No change from 2017 survey where it was concluded the feature provides an excellent screen and associated ecological value).

11.5.9 Some of the trees/hedgerows proposed to be removed are considered healthy and could be managed to improve their quality. Their removal to facilitate visibility splays and achieve the development would conflict with Policy LPP65 of the Adopted Local Plan which states they will be retained unless there is a good arboricultural reason for their removal, such as dangerous or in poor health. As set out earlier in the report the significant loss of mature trees and hedgerow along Hedingham Road will have a

detrimental impact on the rural character of the road. This conflicts with the NPPF, Policies SP7 and LPP65 of the Adopted Local Plan.

## 11.6 Ecology

- 11.6.1 Policy LPP64 of the Adopted Local Plan seeks to ensure that developer undertakes an ecological survey and demonstrate adequate mitigation plan is in place to ensure no harm to protected species or priority species.
- 11.6.2 Policy LPP66 of the Adopted Local Plan states, if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for then planning permission should be refused.
- 11.6.3 The application is supported by a Preliminary Ecological Appraisal (Greenlight Environmental Consultancy Ltd, January 2022), Protected Species Survey Report Appraisal (Greenlight Environmental Consultancy Ltd, January 2022). The reports have been reviewed by the Council Ecology Officer who has raised concern that the removal of trees (referenced as T9 (Oak) and T10 (Ash) to facilitate visibility splays have been assessed as having moderate roost potential. The Preliminary Ecological Appraisal (Greenlight Environmental Consultancy Ltd, January 2022) states that, *'further surveys are required to be undertaken if the trees with moderate roosting potential are affected by the proposed works'*.
- 11.6.4 The Ecology Officer has recommended that two emergence/re-entry surveys are required to be undertaken by suitably qualified ecologists, between May and September with at least one being undertaken between May and August, to accord with the Bat Conservation Trust Good Practice Guidelines. The results of the survey would inform appropriate mitigation which may include a requirement to obtain a European Protected Species Licence. The Ecology Officer refers to High Court Cases and suggests that if it is highlighted a European Protected Species Mitigation Licence is required, any measures to support the licence must be outlined prior to determination.
- 11.6.5 Paragraph 99 of the ODPM Circular 06/2005 advises the presence or otherwise of protected species and the extent to which they might be affected by proposed development must be established before planning permission is granted.
- 11.6.6 The Ecology Officer has also raised concerned regarding the proposed removal of 150 metres of 'species rich hedgerow' from the western boundary of the site particularly as the Protected Species Report Appraisal (Greenlight Environment Consultancy Ltd, January 2022) has, *'indicated there is a low level of bat foraging and commuting activity across the site with calls concentrated along the boundary hedges'*. The Ecology Officer sought further clarification on the usage of the hedgerow to western boundary by bats and if the proposed replacement hedge is to be planted prior to removal of existing hedge.

11.6.7 The Ecology Officer also sought clarification regarding the trees and hedges to be retained as it is not clear from the site layout drawing if these will be included within residential gardens and therefore their retention cannot be guaranteed.

11.6.8 Further information is required to provide the Local Planning Authority with certainty of impacts on legally Protected and Priority Species and enable it to demonstrate compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006. In the absence of the additional information the proposal is contrary to Policy LPP64 of the Adopted Local Plan.

#### 11.7 Highway Considerations

11.7.1 Paragraph 111 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residential residual cumulative impacts on the road network would be severe.

11.7.2 With the National Planning Policy Framework in mind, particularly Paragraph 111, 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.

11.7.3 The Highway Authority have raised no objection subject to conditions relating to submission of a construction management plan, construction of access and visibility splays and a travel pack.

11.7.4 Policy LPP43 of the Adopted Local Plan seek to ensure sufficient vehicle/cycle parking is provided within new developments.

11.7.5 The indicative Block Plan proposes 2 car parking spaces for each dwelling with 4 visitor parking spaces. In addition, single and double garages are proposed for some of the plots. The proposed provision accords with the Adopted Essex Vehicle Parking Standards which requires a minimum of 2 spaces for 2+bedroom dwellings and 0.25 spaces per dwelling for visitor parking.

11.7.6 Whilst the Highway Authority have raised no objection with regards to the proposed access, Officers raise significant concerns regarding the loss of hedgerow/vegetation required to facilitate it.

11.7.7 The proposal accords with Policy LPP43 of the Adopted Local Plan.

- 11.7.8 No details have been provided of electric car charging points, which is required by Policy LPP42 of the Adopted Local Plan. This could be controlled by a suitably worded planning condition on any grant of permission.
- 11.8 Impact upon Neighbouring Residential Amenity
- 11.8.1 The NPPF requires a good standard of amenity for all existing and future occupants of land and buildings. Policy LPP52 of Adopted Local Plan states that there shall be no undue or unacceptable impact on the amenity of any nearby residential property.
- 11.8.2 The nearest neighbouring properties to the site are those to the south in Highlands (No.20 to No.25) and Inglebrook on Hedingham Road. There are also residential properties adjacent to the proposed access.
- 11.8.3 The applicant is not seeking approval for the design and layout of the development at this stage and therefore the impact upon neighbouring amenity cannot be fully assessed as floor plans/elevations have not been submitted.
- 11.8.4 Although an indicative layout plan has been provided, it does not fully show the relationship with the neighbouring residential properties particularly at Highlands and Hedingham Road. The submitted Proposed Site Access Plan in the Transport Assessment (Drawing IT2335/TS/02) illustrates the relationship more clearly. The gardens for properties No.20 to No.25 Highlands range between 17 to 30 metres to the boundary of the site. Inglebrook is the closest at approximately 5 metres from the boundary with the site.
- 11.8.5 It is considered that the proposed positioning of the dwellings would not cause detrimental harm to the neighbouring amenity in terms of overlooking, loss of light, loss of privacy, given the distance of separation.
- 11.8.6 The proposal as far as can be determined at this stages accords with Policy LPP52 of the Adopted Local Plan.
- 11.9 Flooding and Drainage Strategy
- 11.9.1 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.
- 11.9.2 Policy LPP74 of the Adopted Local Plan seeks to minimise exposure of people and property to the risks of flooding by following the national guidance. Policy LPP76 of the Adopted Local Plan refers to SUDS design being an integral part of the layout and should reflect up to date standards.

11.9.3 The application is supported by a Flood Risk Assessment and Surface Water Drainage Strategy (prepared by Evans Rivers and Coastal dated Jan 2022). The report concludes that, *'the site is situated within Flood Zone 1. There is a low groundwater flooding risk. There is some uncertainty regarding the accuracy of the agency's surface water flood risk data and as a precaution the dwellings will be set 0.3m above the ground surface. Safe access and egress is available at all times. An assessment of the practical use of sustainable drainage techniques has been carried out. As soil types will not support the effective use of infiltration devices, it is proposed that surface water is attenuated through the use of permeable paving prior to discharge into the adjacent Ordinary Watercourse'*.

11.9.4 The submitted indicative Block Plan refers to an area to south east of the site as a 'possible exceedance area for SuDS'.

11.9.5 The Lead Local Flood Authority (LLFA) have been consulted however at the time of drafting report a response has not been received. A verbal update will be provided at Committee.

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

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

### 12. Planning Obligations

12.1 Paragraph 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) Regulation. 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.

12.2 Policy LPP78 of the Adopted Local Plan states that permission will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by the proposal. It must further be demonstrated that such capacity as is required will prove sustainable over time both in physical and financial terms.

12.3 Where a development proposal requires additional infrastructure capacity, to be deemed acceptable, mitigation measures must be agreed with the Council and the appropriate infrastructure provider. Such measures may include (not exclusively);

§ Financial contributions towards new or expanded facilities and the maintenance thereof

§ On-site construction of new provision

- § Off-site capacity improvement works and/or
- § The provision of land

- 12.4 Developers and land owners must work positively with the Council, neighbouring authorities and other infrastructure providers throughout the planning process to ensure that the cumulative impact of development is considered and then mitigated, at the appropriate time, in line with their published policies and guidance.
- 12.5 The following are identified those matters that the District Council would seek to secure through a planning obligation, if it were preparing to grant permission and the applicant has agreed to enter in to a Section 106 legal agreement in respect of these matters:

#### Affordable Housing

- 12.6 Policy LPP31 of the Adopted Local Plan states that for developments of this size affordable housing will be provided onsite with a target of 40% affordable housing provision on sites in rural areas. In accordance with Policy LPP31 of the Adopted Local Plan, the outline proposal for 14 dwellings would require 40% to be provided as affordable housing which would equate to 5 dwellings to be secured by Section 106 legal agreement.

#### NHS

- 12.7 A financial contribution of £6,900 is sought in order to increase capacity for the benefit of patients of Elizabeth Courtauld Surgery. This may be achieved through any combination of extension, reconfiguration or relocation of premises and / or staff recruitment or training.

#### Open Space

- 12.8 Policy LPP50 of the Adopted Local Plan states that all developments will be expected to provide new open spaces in line with the requirements set out in the Open Spaces SPD. The Councils Open Space SPD sets out details on how standards will be applied. A development of this size would be expected to make provision onsite for informal and amenity open space and an outdoor equipped play area. A financial contribution would be sought for outdoor sport and allotments. There is also a requirement to secure the ongoing maintenance of any public open space provided on site.
- 12.9 Subject to the above matters being incorporated into a Section 106 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 fails to satisfactorily mitigate the impacts of the development on local infrastructure and is contrary to Policies LPP31, LPP50 and LPP78 of the Adopted Local Plan.



### 13. PLANNING BALANCE AND CONCLUSION

- 13.1.1 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 designated development boundary where the principle of development is generally considered to be acceptable in accordance with Policy LPP1 of the Adopted Local Plan.
- 13.1.2 Paragraph 60 of the NPPF sets out the Government's objective of significantly boosting the supply of homes. The main mechanism within the NPPF for achieving this is the requirement that local planning authorities demonstrate a five-year supply of deliverable housing land, assessed against housing need. In this regard, the Council is currently able to demonstrate a Housing Land Supply of 5.1 years against its housing need. As such the Council is presently meeting this objective.
- 13.1.3 As such, although the Council can currently demonstrate a 5 Year Housing Land Supply, this is finely balanced, and currently only marginally exceeds the 5 year threshold.
- 13.1.4 As the Council can demonstrate the required 5 Year Housing Land Supply the 'tilted balance' pursuant to Paragraph 11d) of the NPPF is not engaged due to a lack of housing land supply. It is therefore necessary to identify the most important policies for determining the application and to establish whether these are out-of-date. Paragraph 219 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).
- 13.1.5 In this case the basket of policies which are considered to be the most important for determining the application are Policies SP1, SP3, SP7, LPP1, LPP52, LPP57, LPP65, LPP66, LPP67 of the Adopted Local Plan.
- 13.1.6 Policy SP1 of the Adopted Local Plan states that when considering development proposals the Local Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF, and will seek to approve proposals wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP3 of the Adopted Local Plan sets out the spatial strategy for North Essex, namely to accommodate development within or adjoining settlements according to their scale, sustainability and existing role both within each individual Districts, and where relevant, across the wider strategic area. Further growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. As the Section 1 of the Local Plan was found to be sound and has been adopted by the Council, it is considered that both

policies are consistent with the NPPF and can be afforded full weight. Neither are out-of-date.

- 13.1.7 Whilst the primary purpose of Policy LPP1 of the Adopted Local Plan is to restrict development to development boundaries, and thus resist it in the countryside, it is considered that the policy remains broadly consistent with the Framework's approach of protecting the countryside from harmful development, and is not hindering the Council in delivering housing growth within the District. The policy is not out-of-date, and can be given moderate weight.
- 13.1.8 Policy LPP52 of the Adopted Local Plan states that the Council will seek a high standard of layout and design in all developments, large and small. The layout, height, mass and overall elevational design of buildings and developments shall be in harmony with the character and appearance of the surrounding area; including their form, scale and impact on the skyline in the locality. It is considered that the policy is consistent with the NPPF as it seeks to secure sustainable development. The policy is not out-of-date, and can be given full weight.
- 13.1.9 Policy LPP67 of the Adopted Local Plan requires that new development must successfully integrate into the local landscape and that proposals that fail to do so will not be permitted. The underlying objectives of Policy LPP67 is to protect the landscape character and amenity of the countryside and require a decision maker to consider the established landscape character and its sensitivity to change and are considered to both be consistent with Paragraph 174(b) of the NPPF and are not considered to be out of date and can be given significant weight.
- 13.1.10 Policy LPP66 of the Adopted Local Plan states that sites designated for their international, European and national importance to nature conservation should be protected from development likely to have an adverse effect on their integrity. The objectives of this policy is considered to be consistent with Chapter 15 of the NPPF, and is therefore not out of date and can be given significant weight.
- 13.1.11 When considering the basket of the most important policies for the determination of this application as a whole, it is considered that the policies are not out-of-date and are broadly consistent with the Framework.
- 13.1.12 Given that the Council can demonstrate a 5 Year Housing land Supply, and the basket of policies are not otherwise out-of-date, the 'flat' (or untilted) planning balance must still be undertaken which weighs the adverse impacts of the proposed development, including the conflict with the Development Plan, against the public benefits of the proposal.
- 13.1.13 In undertaking this flat planning balance, such an assessment must take account of the economic, social and environmental impact of the proposed development. As set out in Paragraph 8 of the NPPF, achieving sustainable development means that the planning system has three overarching

objectives, which are interdependent and needed to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

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

## 13.2 Summary of Adverse Impacts

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

### **Conflict with the Development Plan**

13.2.2 The proposed development would conflict with Policy LPP1 of the Adopted Local Plan as it proposes development outside the defined development boundaries and within the countryside. Furthermore the proposal would conflict with Policy LPP67 of the Adopted Local Plan as the proposal would result in the intrusion of development into the countryside and would result in a detrimental impact upon the character and amenity of the countryside.

13.2.3 The proposal would conflict with Policy LPP66 of the Adopted Local Plan as insufficient information has been submitted with regards to protected species.

13.2.4 The proposal would conflict with Policy LPP65 of the Adopted Local Plan as the proposal would result in the removal of healthy trees to facilitate visibility splays and development.

13.2.5 The proposal would conflict with Policy LPP57 of the Adopted Local Plan as the proposal would have a detrimental impact on the setting of Grade II asset.

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

- 13.2.6 The proposal proposed conflicts with Policy LPP67 of the Adopted Local Plan as the proposal would result in the loss of a significant amount of vegetation along Hedingham Road. The proposed development would result in a detrimental impact upon the character and amenity of the countryside. Significant weight is given to the conflict with these policies.

### **Harm to Trees/Hedgerows**

- 13.2.7 The proposal would result in the loss of healthy trees without justified arboricultural reasoning. This weighs against the proposal and is afforded significant weight.

### **Ecology**

- 13.2.8 The proposal fails to provide sufficient information with regards protected species and this weighs against the proposal and is afforded significant weight.

### **Design and Layout**

- 13.2.9 The site could contain more than the 14no. units proposed and thus is an inefficient use of land. Furthermore the proposal fails to provide an adequate level of amenity space for future occupiers contrary to Policy LPP52 of the Adopted Local Plan. This conflict is afforded significant weight.

### **Location and Access to Services and Facilities**

- 13.2.10 Future residents would be largely reliant on private car in order to access services and facilities outside of the village. The proposal would thus fail to contribute towards managing sustainable patterns of growth. This is contrary to Policy SP7 of the Adopted Local Plan. This conflict is afforded moderate weight given the existing bus service provision.

### **Harm to Setting of Heritage Asset**

- 13.2.11 The proposed access road to the north east of the site would have a detrimental impact on the setting of the Grade II dwelling conflicting with Policy LPP57 of the Adopted Local Plan. This conflict is afforded significant weight.

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

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

### **Delivery of Market and Affordable Housing**

- 13.3.2 The development would facilitate the provision of 14 dwellings comprising of 9 market dwellings and 5 affordable dwellings. This is afforded significant weight.

### **Economic and Social Benefits**

- 13.3.3 The proposal would undoubtedly deliver economic benefits during the construction period and economic and social benefits following occupation of the development, in supporting local facilities. In view of the scale of the development, this is afforded moderate weight.

### **Section 106 Obligations**

- 13.3.4 Should it have been entered into, the proposal would have secured a number of Section 106 obligations including the aforementioned affordable housing, open space, and health contributions. In view of the scale of the development, the open space and healthcare contributions are afforded moderate weight.

### **13.4 Planning Balance**

- 13.4.1 When considering the flat planning balance and having regard to the adverse impacts and benefits outlined above, and having regard to the requirements of the NPPF as a whole, Officers have concluded that the benefits of the proposal are outweighed by the harm impacts, including the harm arising from the conflict with the development plan, such that planning permission should be refused in line with the Development Plan.
- 13.4.2 Notwithstanding the above, even if the 'tilted balance' was engaged, it is considered that the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Against this context, it would be recommended that planning permission be refused for the proposed development.

### **14. RECOMMENDATION**

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## APPENDIX 1:

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

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

<b>Plan Description</b>	<b>Plan Ref</b>	<b>Plan Version</b>
Location Plan	1597 -LOC	N/A
Aerial Photo	1597-P000	N/A
Street elevation	1597-P002	N/A
Section	1597-P003	N/A
Site Plan	1597-P001	E

#### Reason(s) for Refusal

##### Reason 1

The site is located in the countryside and falls outside of the defined village envelope as identified in the Adopted Local Plan. The proposal with a density of 14 dwellings per hectare fails to make efficient use of land but also fails to demonstrate that adequate amenity space could be provided for future occupiers based on the housing mix and tenure identify. In addition the proposal would have a detrimental visual impact on the rural character of the area and Hedingham Road through the loss of trees and hedges to enable the proposed vehicle access and the required visibility splays to be constructed. The proposal would result in the intrusion of development into the countryside introducing an unexpected sense of urban sprawl to the detriment of the amenity afforded to the countryside setting. The development is thereby contrary to provisions of the National Planning Policy Framework, Policies SP7, LPP52 and LPP67 of the Braintree District Local Plan 2013 - 2033, and the Essex Design Guide.

##### Reason 2

Insufficient information has been submitted to adequately demonstrate that the development would not adversely impact upon protected species. The proposal is thereby contrary to the provisions of the National Planning Policy Framework, and Policy LPP64 of the Braintree District Local Plan 2013 - 2033.

##### Reason 3

The proposal would result in the loss of healthy trees and established hedgerow to facilitate the development and achieve visibility splays. The trees and hedgerow make a positive contribution to the character and appearance of the surroundings. Their loss is without good arboricultural reason and is contrary to the National Planning Policy Framework and Policy LPP65 of the Braintree District Local Plan 2013 - 2033.

##### Reason 4

The proposed access to the north east of the site would have a detrimental impact on the setting of the Grade II listed barn (Shardlowes Barn) as it would be harmful to the agrarian landscape and would result in loss of historic field boundary and erosion of open fields contrary to the National Planning Policy Framework and Policy LPP57 of

the Braintree District Local Plan 2013 - 2033.

#### Reason 5

Gosfield is identified as a 'Third Tier' village in the Section 2 Plan and lacks most of the facilities required to meet day to day needs. Future occupiers of the development would be largely reliant on the private car in order to access a full range of services and facilities in nearby Key Service Village of Sible Hedingham and Braintree/Halstead and therefore would be contrary to the National Planning Policy Framework and Policy SP7 of the Braintree District Local Plan 2013 - 2033.

#### Reason 6

The proposed development would trigger the requirement for:

- The delivery of 40% affordable housing on site;
- The provision, maintenance and delivery of public open space, outdoor sports and allotments.
- Financial contribution in order to increase capacity for the benefit of patients of Elizabeth Courtauld Surgery.

These requirements would need to be secured through a Section 106 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 LPP21, LPP50 and LPP78 of the Braintree District Local Plan 2013 – 2033, and the Open Space Supplementary Planning Document (SPD).

#### Positive and Proactive Statement

*The Local Planning Authority has acted positively and proactively in determining this application by identifying the areas of conflict with adopted Policy and National Planning Guidance and setting these out clearly in the reason(s) for refusal. However, as is clear from the reason(s) for refusal, the issues are so fundamental to the proposal that it would not be possible to negotiate a satisfactory way forward in this particular case.*

## APPENDIX 2:

### POLICY CONSIDERATIONS

#### National Planning Guidance

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

#### Braintree District Local Plan 2013 - 2033

SP1	Presumption in Favour of Sustainable Development
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP7	Place Shaping Principles
LPP1	Development Boundaries
LPP16	Housing Provision and Delivery
LPP31	Affordable Housing
LPP35	Housing Mix, Density and Accessibility
LPP43	Parking Provision
LPP47	Built and Historic Environment
LPP52	Layout and Design of Development
LPP57	Heritage Assets and their Settings
LPP63	Natural Environment and Green Infrastructure
LPP64	Protected Sites
LPP65	Tree Protection
LPP66	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP65	Tree Protection
LPP67	Landscape Character and Features
LPP71	Climate Change
LPP72	Resource Efficiency, Energy Generation and Energy Efficiency
LPP74	Flooding Risk and Surface Water Drainage
LPP75	Surface Water Management Plan
LPP76	Sustainable Urban Drainage Systems
LPP78	Infrastructure Delivery and Impact Mitigation

#### Other Material Considerations

Essex Design Guide 2005  
Essex Vehicle Parking Standards 2009  
Open Space Supplementary Planning Document  
Affordable Housing Supplementary Planning Document



APPENDIX 3:

SITE HISTORY

<b>Application No:</b>	<b>Description:</b>	<b>Decision:</b>	<b>Date:</b>
19/00043/REF	Outline Planning Application with all matters reserved except access, for the demolition of commercial buildings, erection of up to 135 dwellings including 54 affordable dwellings.	Appeal Dismissed	26.03.20
18/00279/OUT	Outline Planning Application with all matters reserved except access, for the demolition of commercial buildings, erection of up to 135 dwellings including 54 affordable dwellings.	Refused	29.03.19



## Appeal Decision

Hearing Held on 12 & 13 November 2019

Site visit made on 13 November 2019

**by D J Board BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26<sup>th</sup> March 2020**

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### **Appeal Ref: APP/Z1510/W/19/3228753**

### **Shardlowes Farm, Hedingham Road, Gosfield, CO9 1PL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Stockplace Investments Limited, The Tutton Family, Susan Stevens and L & D Minton (Mr Paul Denney) against the decision of Braintree District Council.
  - The application Ref 18/00279/OUT, dated 9 February 2018, was refused by notice dated 29 March 2019.
  - The development proposed is described as Outline application with all matters reserved except access, for the demolition of commercial buildings, erection of up to 135 dwellings including 54 affordable.
- 

### **Decision**

1. The appeal is dismissed.

### **Procedural Matters**

2. The application was made in outline with access submitted for consideration. The appeal is considered on this basis. Therefore, whilst layout plans have been provided, they are purely indicative.
3. The scheme does not include details of the proposals for the listed building within the site. Therefore, it was agreed at the Hearing that the description of development should be amended to delete '*...and restoration of listed barn for employment use*' from the description of development. The banner heading of my decision reflects this change.
4. I have been referred to the policies of the emerging Braintree District Publication Draft Local Plan. However, this plan has not been examined and found sound. Therefore, I attach very limited weight to its policies.

### **Main Issues**

5. The main issues in the appeal are:
  - The effect of the proposal on the character and appearance of the area;
  - Whether the site would be a suitable location for new housing, having regard to social and physical infrastructure in the locality;
  - The effect of the proposed development on the setting of the nearby Grade II listed barn;

- Whether the proposed development would preserve or enhance the character or appearance of the Gosfield Conservation Area.
- Whether the proposal would provide an appropriate surface water drainage strategy;
- The effect of the proposal on ecology;
- Whether the scheme would make appropriate provision for infrastructure, in particular affordable housing, education, primary health care, public open space, outdoor sports facilities and allotments.

## Reasons

### *Character and appearance*

6. The site would be accessed from Hedingham Road and would have some frontage to it. It would extend back from the road toward the dwellings in Highlands and along Halstead Road. The scheme proposes up to 135 dwellings on the site. I have been provided with an illustrative layout plan. I appreciate that the details of the layout could be subject to reserved matters and that the appellants are not tied to these plans. Nonetheless, the purpose of illustrative plans is to demonstrate that an acceptable scheme could be advanced at reserved matters stage for the development of the site.
7. The appellants have undertaken a Landscape Appraisal (LA) of the proposals<sup>1</sup>. There is no dispute that the site falls within the Gosfield Wooded Farmland landscape designation<sup>2</sup>. The settlement pattern of this area is described as being characterised by scattered farmsteads in field corners and by woodland edges, an open character with a sense of tranquillity throughout the area. Moreover, it is identified that there are networks of rural lanes and public rights of way that wind through the landscape. It is acknowledged that the area is described as having a relatively high sensitivity to change.
8. The LA described Gosfield as being a linear village which has developed along the A1017 Hedingham Road. The appellants' submission develops this by describing Gosfield as having a series of clusters of development<sup>3</sup> shown in yellow on the submitted photograph, which the LA describes as visually contained within a limited sphere of influence. The submission identifies the existing industrial/agricultural buildings as forming a 'cluster'. In terms of assessing the effect of the provision of housing in the locality I do not consider that this is in fact a fair characterisation of the settlement. The other yellow areas on the photograph relate to areas of existing housing. Therefore, in considering the effect of the development on character and appearance I cannot agree with the appellants that the scheme would involve adding to existing clusters.
9. Along Hedingham Road and Halstead Road dwellings primarily front the road with generous plots and space around them. There are variations in design, scale and layout. Nonetheless, between the dwellings there are gaps where there are views to the mainly open landscape beyond. I appreciate that the

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<sup>1</sup> The Landscape Partnership, Landscape Appraisal, March 2018

<sup>2</sup> Appendix LP4 to the Council's Statement of Case, Landscape Character of Braintree District

<sup>3</sup> Appellants' Statement of Case, image at 5.11

site includes the existing building and the listed barn. However, the presence of farmstead, agricultural and vernacular buildings is something that is acknowledged in the Landscape Character Assessment<sup>4</sup> that can add variety and interest to the landscape. Furthermore, it is fundamentally different to the provision of residential dwellings. Therefore, I consider that the appeal site sits within a primarily open landscape that provides a transition to the countryside beyond it to the south. In this regard, it forms an integral part of the character of the edge of Gosfield and its setting within the wider landscape.

10. In terms of the linear form referred to in the LA, development is mainly focussed on Hedingham Road and Halstead Road with roads and modest cul de sac development accessed from the main spine roads. I appreciate the indicative plans show that a group could front Hedingham Road. However, overall, the scheme would be creating a large area of housing which, whilst close to the settlement edge, would have very limited visual or physical affinity to the main roads in the village. In this regard the introduction of dwellings onto the appeal site would represent a form of development at odds with the prevailing pattern of Gosfield.
11. Whilst indicative, the plans show that to accommodate up to 135 dwellings on the site access would be taken from Hedingham Road. The dwellings would be laid out around a main spine road within the site, with some smaller cul de sacs taken from it. Some dwellings are shown as fronting the road and generous landscape and tree buffers and an area of public open space would be provided. Nonetheless the site area would extend back significantly from both roads. The provision of dwellings, and in depth, would not be reflective of the character of the main village area.
12. Travelling along Hedingham Road there are points where the appeal site and some of the existing dwellings would be appreciated together. The existing trees provide setting to the approach to the village against an open backdrop. I appreciate that the road is a busy A road and that within the site level changes may serve to limit the impact of new dwellings. Nonetheless, along Hedingham Road the scheme would extend built form into the countryside which would represent a marked change in character to the approach to the village.
13. I therefore conclude that the scale of housing proposed, namely up to 135 dwellings, would appear out of character with the existing settlement. As such it would have a harmful effect on the character and appearance of the area. It would therefore be in conflict with Core Strategy (CS) policy CS9 and Local Plan (LP) policies RLP90 and RLP80. These policies amongst other things require new development schemes to successfully integrate into the local landscape and enhance local distinctiveness.

#### *Site location and the provision of housing*

14. CS policy CS7 seeks to direct future development to accessible locations to reduce the need to travel. This objective is consistent with the National Planning Policy Framework (the Framework) which sets out that development proposals should consider opportunities to promote walking, cycling and public transport use whilst recognising opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

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<sup>4</sup> Appendix LP4 to the Council's Statement of Case, Landscape Character of Braintree District

15. **The Council's statement identifies that within its settlement hierarchy Gosfield is identified as being an 'other village'.** Nonetheless, the Council acknowledge that there are amenities/facilities available in the village. In particular the appellants point to the proximity of bus stops<sup>5</sup> and the frequency of these services, the location of the primary school (which the appellants estimate to be about 785m from the site); community shop; eating and leisure facilities.
16. The services in Gosfield would be accessible on footpaths along Hedingham Road and Halstead Road. I appreciate that the Council are concerned about the use of an unmade, unlit and wooded public right of way to link the majority of the dwellings to the main roads. As part of my site inspection I walked along the footpath and both Halstead and Hedingham Road. The route into Gosfield would involve a relatively short section of the main road. Nonetheless, I agree with the appellants that the footpath is surfaced, of a reasonable width and has a verge. As such it offers a choice to future residents for access to the village.
17. The bus stops are in a reasonable walking distance of the site. The village is served by four bus routes which offer a service to Halstead and Braintree and other nearby settlements. The appellants argue that the services provide suitable access to daily services and facilities, as well as employment opportunities in larger settlements and other locations along the route. The services run regularly Monday to Friday and on Saturdays. The services would therefore provide reasonable access to daytime shopping, leisure, employment and services for future residents 6 days a week.
18. The appellants have referred to other planning permissions being granted and allocations being made in similar locations to the appeal site. In particular reference to a decision in Great Bardfield<sup>6</sup>. I note **the Inspector's conclusions** cited by the appellants on the issue of location. Nonetheless, the scheme referred to was assessed on its merits on the basis of the local services of Great Bardfield. Therefore, I give it very limited weight in consideration of this scheme which I have in any event assessed on its individual merits.
19. Consequently, whilst I recognise future residents would have some degree of choice over their mode of transport, that choice would not be to a range of services when choosing to walk or cycle and Gosfield is identified as an **'other village'**. Therefore, to offer a genuine choice I consider that the sites location would need to be balanced in favour of sustainable transport options, which overall it would not be. As such, in this case it is probable that future residents would be largely reliant on private car in order to support services within nearby villages and maintain or enhance the vitality of those communities and to access services further away. The proposal would thus fail to contribute towards managing sustainable patterns of growth and the proposal would not be consistent with the character of the settlement. I conclude, therefore, that the proposal would not be a suitable location for new housing. It would therefore be in conflict with CS policy CS 7.

### *Heritage Assets*

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<sup>5</sup> Intermodal Transportation Transport Assessment January 2018

<sup>6</sup> APP/Z1510/W/16/3148072

20. There are designated heritage assets within the vicinity of the appeal site. There is the Grade II listed barn and Gosfield Conservation Area. The development has potential to affect the significance of these assets by a change to their settings. The appellants submit that the CS and LP policies are no longer consistent with the more up to date policy for heritage assets in the Framework. I therefore attach greater weight to the Framework in this case.

*Setting of the Grade II Listed barn*

21. The significance of the barn, which is timber framed, is derived primarily from its physical fabric. There is some agreement between the parties that the date of the building is 17/18<sup>th</sup> century. The list description refers to it being timber framed and clad in weatherboard with a half hipped corrugated iron roof. The **Council describe the building as having been a 'pest house'**. The appellants heritage statement also confirms this going on to state that it later formed part of the courtyard layout of the farm. There is agreement that the modern materials do not add to the historic fabric. Within the Heritage Statement the barn is described as a fine example of an early Napoleonic War era thrashing barn. It was once part of an integrated late 19<sup>th</sup> century farmyard. In terms of its setting the main contributors are the immediate curtilage and the surrounding site area. In its current form it is surrounded by a number of small workshops and stores which are mainly used for the alteration of motor vehicles.
22. There is a public right of way which follows the historic access route to the farm complex. There are views of the barn from this route. In particular the barn is appreciated when approaching from both the east and the west. I understand that, in its current form, the barn is seen within the environment of scrap vehicles around it including the small workshops and shed along with other business uses. In this regard the barn is currently experienced within a wider countryside setting and within an area of mainly non residential uses.
23. I appreciate that the appellants consider that the removal of the existing buildings and uses around the building would be a material improvement and they consider that a new setting could be created. Nonetheless, the Council make a valid point that historically the building would have been part of the wider agrarian landscape. In this context, whilst I note the benefit of the removal of existing buildings, the resultant setting of the barn if the scheme were to go ahead also requires consideration. I acknowledge that the agricultural setting of the barn has been disrupted by the presence of the existing buildings around it. I also appreciate that there are other dwellings that have been developed over time in the immediate locality. Nevertheless, I agree with the Council that the barn remains relatively isolated and in an agrarian landscape, which contributes significantly to its setting and how it is experienced.
24. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. The glossary to the Framework states that the setting of a heritage asset comprises the surroundings in which it is experienced and that different elements of that setting may either make a positive or negative or neutral contribution to its significance.

25. The site plan submitted with the scheme is purely indicative as the matter of layout is reserved for future consideration. Furthermore, the appellants submit that the layout could be designed to accommodate additional space around the barn if required. Nonetheless, this plan shows how a scheme of up to 135 dwellings could be accommodated on the site. In particular this is the only plan before me that indicates a layout which could accommodate the quantum of development.
26. Accordingly, taking into account all of the above, including specifically the removal of the existing buildings around the listed building, I consider that the provision of this number of dwellings on the appeal site would not preserve the significance and special interest, including the setting, of the listed building. In the language of the Framework it would result in less than substantial harm to the barn. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect.
27. The appellants initially proposed a planning obligation to secure works to the listed barn. However, following disagreement between the parties about this matter the appellants submit that these works should now be secured by condition. However, there is no scheme in place with either planning permission or listed building consent secured. As such there is no clear time frame for these works. Therefore, I do not consider that imposition of a condition seeking to secure the works would be enforceable or reasonable as there no certainty that all of the works could be performed within any time limit that would be imposed by this action. As such I cannot attach weight to this proposition as a benefit of the scheme or as securing its optimum viable use.
28. The Framework at paragraph 196 states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The proposal would provide new dwellings in the locality and . There would be social and economic benefits derived from that provision both during construction and after occupation. However, these benefits would be likely to be small in scale. Therefore, even though I have found that the harm to the designated heritage asset is less than substantial it is not to be treated as a less than substantial objection to the proposal. The public benefits attributable to the proposal in my judgement would not outweigh the great weight to be given to the harm to the designated heritage asset. As such, the proposal would be in conflict with the Framework and the guidance set out in section 16, LP policies RLP 90 and RLP 100 and CS policy CS 9, in so far as they seek to preserve and enhance the setting of listed buildings and protect the historic environment.

#### *The Gosfield Conservation Area*

29. The Gosfield Conservation Area (CA) encompasses the core of the village and Gosfield Hall and Park. The significance of the CA is derived from the buildings that make up its historic core. Beyond edge of the CA the area links to the open landscape beyond where development is more sporadic. The appeal site is separated from the CA by existing housing. Therefore, it would be close to but not in or adjacent to the CA.
30. The existing twentieth century housing on the edge of the CA already influences the approach to the CA along Hedingham Road. Specifically, that



the twentieth century housing is viewed when entering the CA and then moving further in the appreciation of the approach it evolves to take in the core. If the appeal scheme were introduced the area of open countryside to the north of the existing settlement would introduce additional dwellings into views from Hedingham Road. Overall, it would not change the fundamental appreciation of the approach to the CA along Hedingham Road. In this regard the effect on the significance of the CA would be neutral.

### *Surface Water Drainage Strategy*

31. The primary concern of the Council relates to run off from the surface water drainage scheme and whether an appropriate scheme could be secured that would ensure that the scheme would not increase the risk of flooding. The submitted flood risk assessment<sup>7</sup> includes a drainage strategy. The methods for this have been explained in principle.
32. The flood risk assessment establishes that an assessment of the practical use of sustainable drainage techniques has been carried out. Further that as soil types will not support the effective use of infiltration devices, it is proposed that surface water is attenuated through the use of permeable paving and detention basin prior to discharge into the existing drainage ditch system. The system has been modelled to ensure adequate storage and the appellants have demonstrated that on site a surface water system can be provided that is policy compliant.
33. The Council did not dispute at the Hearing that the appellants have demonstrated that the drainage from the site can be managed. Therefore, had I been minded to allow the appeal, I am satisfied that appropriately worded conditions could have secured this. I therefore conclude that the proposal would make provision for an appropriate surface water drainage strategy. This would accord with CS policy CS8 and LP policy RLP 69 which support the use of sustainable drainage techniques.

### *Ecology*

34. The appellants have provided a Preliminary Ecological Appraisal (PEA) for the site<sup>8</sup>. This survey established that the habitats on the site are of moderate ecological value but that there are no significant ecological constraints that would prevent the proposed works. In addition, that additional surveys for bats, Great Crested Newts, reptiles, badgers and dormice are required to inform an ecological impact assessment of the site and an appropriate mitigation strategy.
35. Based on this information and without further detailed survey work there is a reasonable likelihood of protected species being present on or near the site. Without further survey work the effect of the proposal cannot be determined and I cannot, therefore, be satisfied that protected species would not be harmed. In light of the advice in the Framework it would not be appropriate to leave this to a condition.
36. I therefore conclude that the proposal would have an adverse effect on ecology and that it would conflict with paragraph 175 of the Framework which highlights that when determining planning applications, the aim should be to

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<sup>7</sup> Evans Rivers and Coastal, January 2018

<sup>8</sup> Greenlight Preliminary Ecological Appraisal dated 20 February 2018



conserve and enhance biodiversity. It would also be in conflict with LP policies RLP 80 and RLP 84 and CS policy CS 8 which amongst other things seeks to resist development where there would be harm to protected species.

*Provision of infrastructure*

37. The appellants provided a certified planning obligation in the form of a unilateral undertaking as part of the appeal. This makes provision for 40% affordable housing and financial contributions towards **the development's** impact on early years and childcare facilities, primary school places, transport to secondary school, public open space within the site and outdoor sports facilities/allotments and local health care provision. It was agreed at the Hearing that the affordable housing provision would be policy compliant. It would be in accordance with the development, specifically CS policy CS2.
38. It was agreed by the Council that the education contributions in schedule 1 of the agreement would meet the requirements of the County Council. The school is at or near capacity in every year group. The development would add to need for places in the area. The contribution would mitigate the impact on primary provision and due to the location of the nearest secondary school a contribution is necessary to assist in funding of the transport provision.
39. Schedule 2 makes provision for outdoor sports facilities and allotment contributions whilst schedule 3 makes provision for public open space. the Council has not objected to the amount of open space or the current location on the indicative plans. Policy support for the provision of open space is within LP policy **RLP138 and the Council's open space SPD** whilst RLP139 refers to allotments. Schedule 4 seeks to secure a healthcare contribution. The Council confirmed that the amount is correct and that the money would be transferred to the NHS. The schedule would allow for it to be paid and transferred.
40. Based on the evidence presented, I consider that these contributions are necessary to make the development acceptable in planning terms; directly related to the development; and, fairly and reasonably related in scale and kind. Therefore, they would meet the tests within the CIL Regs and those in paragraph 56 of the Framework. The Council have pointed to a number of errors within the undertaking. However, as I am dismissing the appeal for other reasons, I have not pursued these matters. Overall, having regard to the matters secured by planning obligations and those which could be secured by condition I am content that through provision of the obligation the scheme would make adequate provision for the infrastructure needs arising from the proposal, consistent with the aims of the policies of the development plan.

*Other material considerations*

41. At the Hearing the appellants argued that the Council does not have a five year supply of land for housing suggesting it would be either 3.9 or 4.9 years depending on the method of calculation. An appeal decision was submitted<sup>9</sup> **which found that the Council's supply was in fact 4.45 years.** Since the Hearing the appellants have submitted a further extract from a recent Council committee report. This sets out that the Council does not have a five year supply of land for housing stating that it is 4.51 years. In this context the **appeal scheme would contribute to meeting the district's housing need and**

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<sup>9</sup> APP/Z1510/W/18/3207509

thereby facilitate the government's aim of boosting significantly the supply of housing, through the contribution of up to 135 units.

42. Furthermore, within the planning obligation the scheme would contribute to meeting the need for affordable housing in the district with up to 54 affordable homes secured. This would accord with the requirements of the LP as well as the aims of the Framework. I consider that this obligation would be necessary to secure the affordable housing proposed in perpetuity, directly related to the development and fairly and reasonably related in scale and kind to the development. There would be no conflict with Regulations 122 & 123 of the Community Infrastructure Regulations 2010 (as amended) (CIL Regs) or paragraph 56 of the Framework. As such the provision of affordable housing would be a significant benefit of the scheme.
43. The scheme would also be likely to give rise to economic benefits. Construction employment and expenditure would be associated with the implementation of the scheme. Thereafter, future residents would be likely to support local services and facilities through direct as well as indirect expenditure. The appellants also submit that there would be benefits from local taxation and New Homes Bonus, although these are not quantified. The appellants also consider that the site would be an attractive and suitable location for housing. Moreover, it would provide a range of dwellings that would meet different needs. Nonetheless, I have found that, overall, the location of the site would not weigh in favour of the scheme. As such these economic and social benefits can only be apportioned limited weight.
44. In terms of environmental matters, I understand that the appellants submit that the site is close to existing housing, would have minor landscape effects, modest visual effects and simple design and landscape mitigation could be provided. In addition, **the appellants consider that the existing 'blight' on the site**, which they consider to be harmful, would be removed and there would be reuse and refurbishment of the listed building. However, for the reasons given, I have found that the scheme would have a harmful effect on the character and appearance of the area and the setting of the listed barn. As such the environmental aspects do not weigh in favour of the scheme.

### **Planning Balance and Conclusion**

45. The appeal site is located outside of the defined development boundary for Gosfield. Therefore, for the purposes of the application of planning policies it is located in the countryside and would contravene policies for control of development in the countryside. As such it would be in conflict with RLP 2 and CS 5 in so far as it seeks to protect the countryside surrounding settlements. CS 5 seeks to protect and enhance the landscape character of the Countryside. respects. The revised Framework sets out the need to **'recognise the intrinsic character and beauty of the countryside'** at paragraph 170 (b). CS 5 is consistent with national planning policy in so far as it and seeks to protect the character of settlements and the countryside. As such I consider that this policy would not be out of date when considering the issue of landscape character and the effect of providing housing in this countryside location.
46. There is no dispute that the appeal site is not subject to any designations which indicate that development should be restricted for the purposes of footnote 6. Footnote 7 is clear that applications involving the provision of housing where the local planning authority cannot demonstrate a five year supply of housing

- will render the most important policies out of date. In this regard policy RLP 2 is out of date and as such the tilted balance test at paragraph 11(d) is engaged.
47. The adverse impact relates to the harm to the character of the landscape by virtue of the change from countryside to housing. This would run counter to the core planning principle of recognising the intrinsic character and beauty of the countryside and to designing developments which add to the overall quality of an area. In addition, there would be harm to the setting of the Listed Barn and to protected species. In my judgement, this harm carries substantial weight. Further, I have found that the scheme would harm the character and appearance of the area. In this regard it would be in conflict with policy CS 5 and the Framework. In addition, the scheme would lead to harm to the setting of the nearby listed barn and ecology. These are matters to which I also attach significant weight.
48. In terms of benefits, the construction of up to 135 dwellings would deliver market and affordable housing which adds weight to the social benefits which this proposal might bring through the provision of homes. The appellants suggest that there are other social and economic benefits arising from the appeal which I have considered in turn in the paragraphs above. However, none of these amount to more than limited weight either individually or collectively.
49. If policies for the supply of housing land are not up to date then less weight must be given to policy objectives in relation to the location of development. Whilst this proposal would deliver social and economic benefits they would, to my mind, be significantly and demonstrably outweighed by the adverse effect of the provision of 135 dwellings and the associated environmental harm identified. Therefore, even if I were to conclude there is a shortfall in 5 year supply of the scale suggested by the appellants, the adverse impacts of granting permission that I have identified would significantly and demonstrably outweigh the benefit of the provision of dwellings in this case.
50. The proposal would be in conflict with development plan policies CS 5, CS 7, CS 8, CS 9, RLP 80, RLP 84, RLP 90, RLP 100. Therefore, it would be in conflict with the development plan as a whole. The proposal should also be assessed on the basis of the tilted balance set out at paragraph 11 of the Framework which is a material consideration. On this point I have found that the harm from the scheme would significantly and demonstrably outweigh the benefits of the provision of dwellings in this case. As such the Framework is a material consideration which also weighs against the proposal. Therefore, in the circumstances of this appeal the totality of the other material considerations does not justify making a decision other than in accordance with the development plan.
51. Therefore, for the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

*D J Board*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANTS:

Robert Pomery	Pomery Planning Consultants
Lyndon Gill	Barton Willmore
Andrew Winter	Barton Willmore

### FOR THE LOCAL PLANNING AUTHORITY:

Lisa Page	Braintree District Council
Kathryn Carpenter	Braintree District Council
Neil Jones	Braintree District Council
Nicolas Page	Essex County Council

## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Appellants' table – Average build out rate from BDC Appendix 3
- 2 Appellants' table – Lead time and delivery rates in recent large sites in Braintree District as at end October 2019
- 3 Conservation Area Plan
- 4 IT1841/TA/02 – Proposed site access plan