

# PLANNING COMMITTEE AGENDA

**Tuesday, 27 October 2020 at 7.15pm**

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

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

To access the meeting please use the link below:

<http://www.braintree.gov.uk/youtube>

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

**Membership:-**

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

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

A WRIGHT  
Chief Executive

## INFORMATION FOR MEMBER – DECLARATIONS OF MEMBERS' INTERESTS

### **Declaration of Disclosable Pecuniary Interests (DPI), Other Pecuniary Interests (OPI) or Non-Pecuniary Interests (NPI).**

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

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

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

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

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

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

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

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

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

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

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

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

**Documents:** Agendas, Reports, Minutes and public question time questions and statement can be accessed via [www.braintree.gov.uk](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 Ms Teams/Zoom and YouTube as the Council's platform for virtual meetings and for monitoring compliance with the legal framework for Council meetings. Anonymised performance data may be shared with third parties.

For further information on how the Council processes data, please see the Council's Privacy Policy. [https://www.braintree.gov.uk/info/200136/access\\_to\\_information/376/privacy\\_policy](https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy)

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

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

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

**3 Minutes of the Previous Meeting**

To approve as a correct record the Minutes of the meetings of the Planning Committee held on 18th August 2020 and 13th October 2020 (copies to follow).

**4 Public Question Time**

(See paragraph above)

**5 Planning Applications**

To consider the following planning applications.

**PART A****Planning Applications**

<b>5a</b>	<b>Application No. 20 00501 FUL - Great Notley Skate Park, Notley Green, GREAT NOTLEY</b>	<b>6 - 13</b>
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<b>5b</b>	<b>Application No. 20 01100 VAR - Appletree Farm, Polecat Road, CRESSING</b>	<b>14 - 34</b>
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**PART B****Minor Planning Applications**

There are no applications in Part B

**6 Urgent Business - Public Session**

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

**Exclusion of the Public and Press**

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

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

**7 Urgent Business - Private Session**

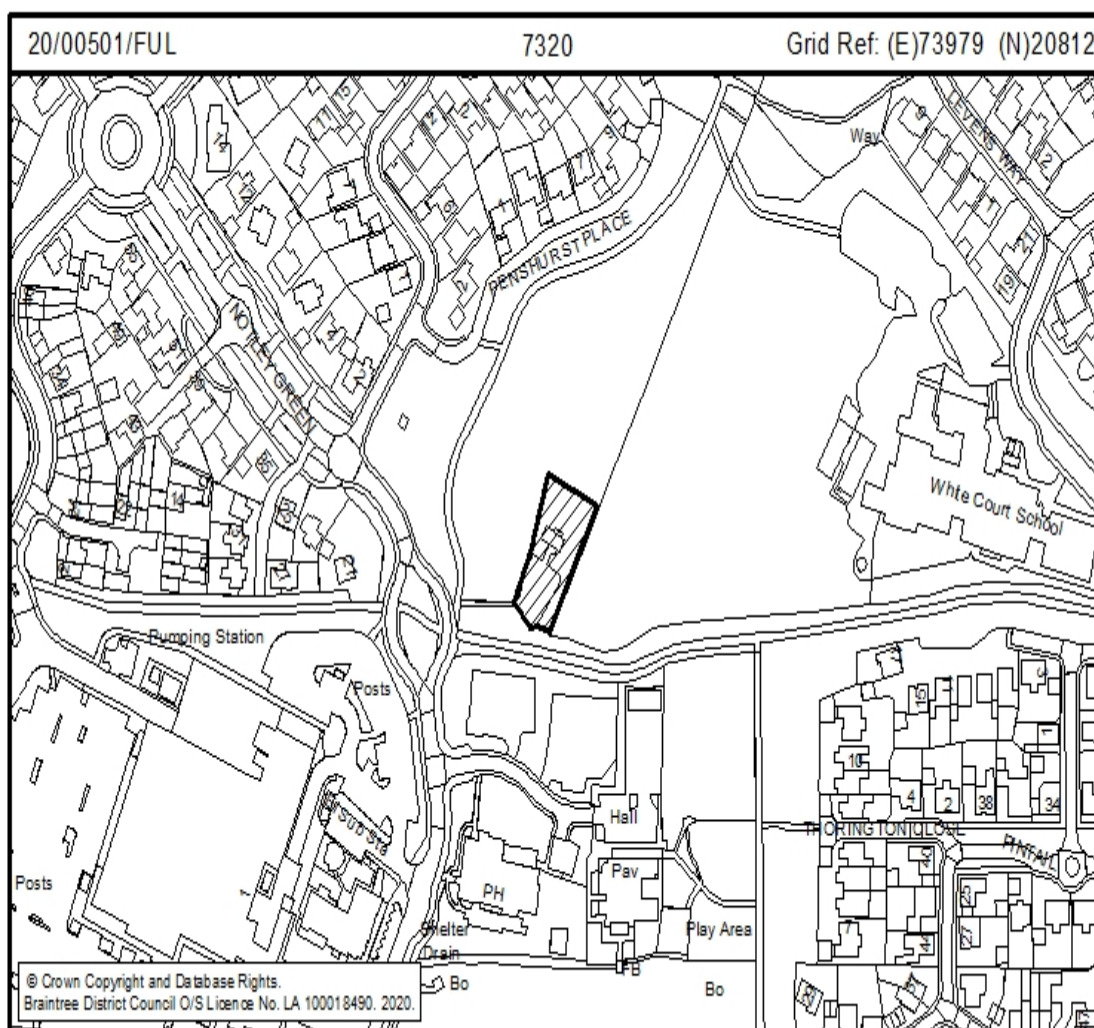
To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.

PART A

AGENDA ITEM NUMBER 5a

APPLICATION NO: 20/00501/FUL  
DATE: 22.05.20  
VALID:  
APPLICANT: Great Notley Parish Council  
7 Mallard Close, Great Notley, Braintree, Essex, UK, CM77 7YD  
DESCRIPTION: Installation of concrete skate ramp and teen shelter  
LOCATION: Great Notley Skate Park, Notley Green, Great Notley, CM77 7US

For more information about this Application please contact:  
Peter Lang on:- 01376 551414 Ext. 2536  
or by e-mail to: [peter.lang@braintree.gov.uk](mailto:peter.lang@braintree.gov.uk)



The application can be viewed on the link below.

<http://publicaccess.braintree.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q7C9ZCBF0J900>

## SITE HISTORY

02/01963/PLD	Application for Certificate of Lawfulness for proposed use of land - Proposed skateboarding facilities	Granted	24.02.03
88/00094/P	Proposed 1800-2000no Dwellings Primary School, Neighbourhood Health & Community Centres, Church Site, Public House And	Withdrawn	22.06.89
89/00641/P	Neighbourhood development comprising residential development (maximum 2000 dwellings); business park (Class B1 uses upto maximum of 400,000 sq. ft.); neighbourhood supermarket and ancillary shop units; primary school site and primary school extension site; health centre; community centre; church site; public house; restaurant; hotel with conference facilities; public open space; country park including sports centre and outdoor pitches; woodland and balancing lake; associated landscaping; highways, and associated mounding and landscaping; associated and ancillary development	Granted	12.12.91
93/00910/FUL	Proposed playing field extension to school site	Granted	20.09.93
93/01411/COU	Proposed change of use to play area	Granted	17.02.94

## POLICY CONSIDERATIONS

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

The Council is currently working on a Draft Local Plan. Following consultation in the summer of 2016 this Publication Draft Local Plan was submitted to the Secretary of State on 9th October 2017.

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

The examination into the Section 1 Local Plan continued in January 2020. Hearing sessions have now been completed, and the North Essex Authorities have now received an initial letter from the Inspector outlining his findings on the Section 1 Local Plan.

In his interim judgement the Inspector has considered that the Section 1 Local Plan cannot be found sound unless the Garden Communities at Colchester Braintree Borders and West of Braintree are removed from the Local Plan.

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

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

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

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

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

### National Planning Guidance

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

### Braintree District Local Plan Review 2005

RLP3            Development within Town Development Boundaries and Village Envelopes



RLP90	Layout and Design of Development
RLP129	Sports and Leisure Facilities
RLP134	Sports Causing Noise or Disturbance

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

CS9	Built and Historic Environment
CS10	Provision for Open Space, Sport and Recreation
CS11	Infrastructure Services and Facilities

#### Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP45	Parking Provision
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development

#### Neighbourhood Plan

N/A

#### Other Material Considerations

Essex Design Guide

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

Essex Parking Standards

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

This application is being reported to Planning Committee in accordance with the Council's scheme of delegation as the application site is located on land owned by Braintree District Council.

#### SITE DESCRIPTION

The application site is located within the Great Notley development boundary in close proximity to the pedestrianised spine of this settlement known as Notley Green.

The existing skate ramp and the associated nearby sports court are surrounded by extensive soft landscaping on all sides severely limiting the visibility of this space from the surrounding area. This area is known as "The Raft" and offers amenities aimed for teenagers and young adults.

## PROPOSAL

Planning permission is sought for the installation of a concrete skate ramp to replace an existing single smaller ramp and for the erection of a teen shelter.

This skate ramp would consist of a double half pipe and would have a footprint some 14.0m by 9.0m with a maximum height of some 1.2m. The skate ramp would be set into the ground with excavated soil formed around its edges. It is noted that the existing ramp is constructed primarily of metal and is considered to be in a poor condition both visibly and for potential users.

The proposed teen shelter would be metal framed with a hexagonal form with a maximum width and depth of some 2.6m. The roof of this shelter would extend over the seating and would have a maximum height of some 2.25m.

## CONSULTATIONS

None

## PARISH / TOWN COUNCIL

Great Notley Parish Council – No comments as this Parish Council submitted this application.

## REPRESENTATIONS

One Neighbouring property was consulted and a site notice was displayed. Two letters of objection were received which are summarised as follows:

- Residential amenity concerns.
- The present skate park has a history of antisocial behaviour that has involved law enforcement and the fire brigade.
- This antisocial behaviour includes noise and the consumption of alcohol and drugs.
- The site and the money invested the skate park should be used for something that involves the entire community and reduces antisocial behaviour.
- Vandalism and graffiti of the surrounding area.

## REPORT

### Principle of Development

In this case, the site is located within the defined settlement boundary of Great Notley. In this location, as set out in Policies RLP3 and RLP90 of the Adopted Local Plan, Policies LPP1, LPP50 and LPP55 of the Draft Local Plan and Policy CS9 of the Adopted Core Strategy, development will only be permitted where it satisfies amenity, design, and highway criteria, and where it can take place without detriment to the existing character of the area without an

unacceptable impact on the amenities of adjoining residential properties, including on privacy, overshadowing and loss of light.

Policy RLP129 of the Adopted Local Plan states that proposals for sports and leisure facilities, which require substantial buildings, including change of use, should normally be located within town or village centres.

The proposal in this case is for the construction of a replacement skatepark within the recreation ground off Notley Green, in Great Notley. As outlined above, this would involve the construction of a free formed above ground concrete skate facility with steel edges. A teen shelter is also proposed on the adjacent land. Taking into account that the proposal would replace what is existing, with what is considered to be a higher quality facility for sport and recreation, the principle of the proposal is considered to be acceptable subject to the following analysis.

### Design and Appearance

Paragraph 127 of the NPPF states that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area. To achieve this, developments must be visually attractive as a result of good architecture, layout and effective landscaping.

Policy RLP90 of the Adopted Local Plan states that the layout, height and design of developments shall be in harmony with the character and appearance of the surrounding area and shall promote a safe and secure environment.

As highlighted above, the existing skate ramp and the associated nearby sports court are surrounded by extensive soft landscaping on all sides severely limiting the visibility of this space from the surrounding area. Furthermore, the submitted Design & Access Statement sets out that the intention is that the skatepark would be set into the park with bunds formed from the excavated topsoil and subsoil, which would be seeded with grass, to avoid tall concrete edges/walls being visible within wider views and to soften the visual impact of the proposal. While the proposed skate ramp and teen shelter, would have a more of urban character than the existing site, given their limited scale and wider visibility, it is not considered to result in harm to the character and appearance of the surrounding area.

The proposal is therefore acceptable and policy compliant in the abovementioned regards.

### Impact on Neighbour Amenity

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Similarly, Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan, both emphasise the need to protect the amenity of nearby properties by

preventing loss of privacy, increase in overshadowing, loss of light, or overbearing impact.

Policy RLP134 of the Adopted Local Plan states that proposals for sport and leisure facilities and activities likely to cause noise or disturbance will only be permitted if: (1) harm would not be caused to noise sensitive development by the nature, scale, extent, frequency or timing of the proposal; and (2) there would be no unacceptable increase in traffic on minor roads.

Concern has been raised through the representations received in connection with this application about the impact the proposal would have upon neighbouring residential amenity and in relation to antisocial behaviour. While these concerns are noted, the nearest residential properties are located some distance from the site of the proposed development, and there is screening in the form of trees and hedging. Furthermore, the proposed location of the facility is located on an area of open space which is currently used for recreation and leisure purposes. The scale of the proposed skatepark is considered to be modest and is commensurate with the existing facility. While this application would introduce the teen shelter, which could be perceived to encourage more congregation, the size of the shelter is also very modest. No external lighting is proposed as part of these proposals.

Taking into account the above, although the concerns of local residents are noted, given the small scale nature of the proposals it is not considered that the proposal would have a detrimental impact upon neighbouring residential amenity in terms of overbearing impacts, loss of light, privacy or outlook or in terms of potential noise impacts.

The proposal is therefore considered to be acceptable and policy compliant in the abovementioned regards.

### Highway Considerations

The proposal would not generate the need for parking provision or impact upon any existing parking facilities. The proposed skate ramp and teen shelter are solely accessible from the Great Notley pedestrianised spine and would consist of a similar use to what is existing. No changes are proposed to the way in which the facility would be accessed. Therefore it is not considered that the proposal would have any highway impacts.

### CONCLUSION

The proposal would be in keeping with the design and appearance of the area and is not considered to be detrimental to neighbouring residential amenity. The application is therefore recommended for approval.

### RECOMMENDATION

It is RECOMMENDED that the following decision be made:

Application GRANTED subject to the following conditions and reasons and in accordance with approved plans:-

APPROVED PLANS

Location Plan  
Proposed Elevations  
Section  
Proposed Block Plan

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

Reason

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

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

Reason

To ensure that the development is in character with the surrounding area and does not prejudice the appearance of the locality.

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

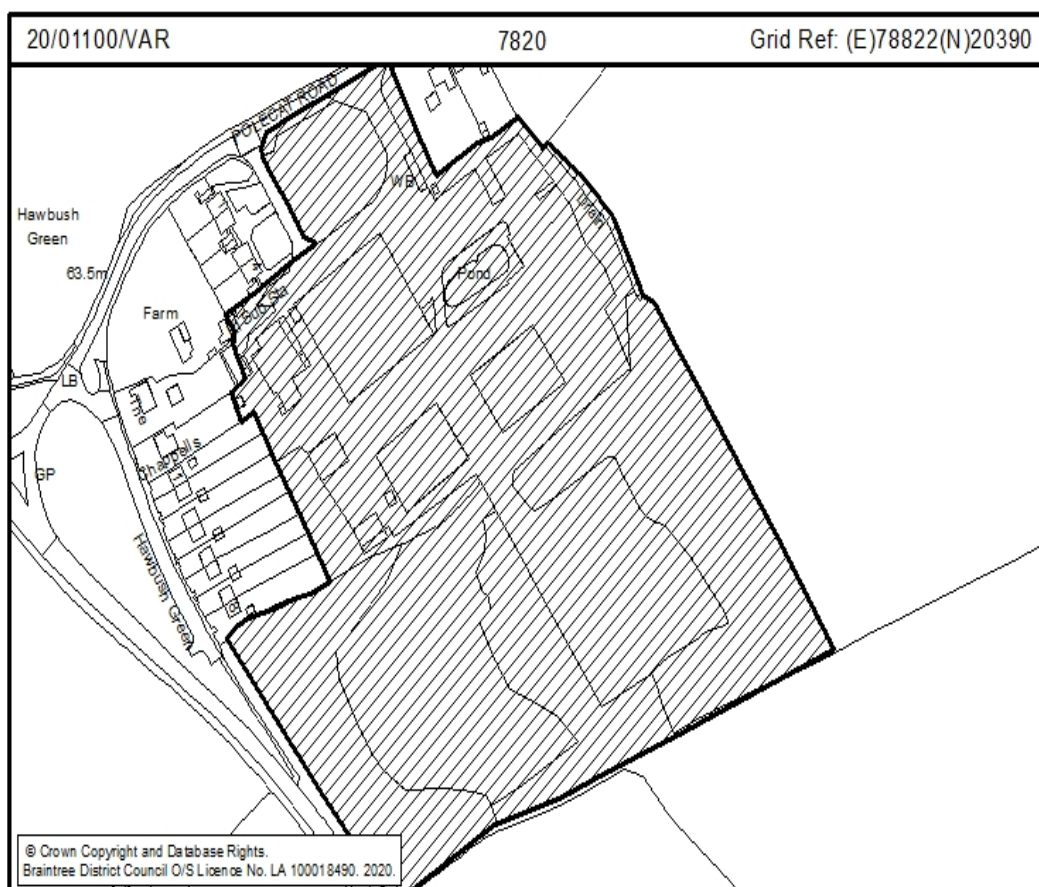
Reason

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER

## AGENDA ITEM NUMBER 5b

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



The application can be viewed on the link below.

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## SITE HISTORY

89/01045/P	Proposed New Weighbridge	Granted	28.06.89
13/01340/ELD	Application for a Lawful Development Certificate for an Existing Use - Creation of Hardstanding	Granted	14.03.14
14/01064/FUL	Change of use of office and land to construction training ground	Granted	28.11.14
14/01586/FUL	Change of use of B2 workshop to B8 storage unit	Granted	14.04.15
15/00169/FUL	Application for removal or variation of a condition no. 3 following grant of planning permission 14/01064/FUL - Change of use of office and land to construction training ground	Granted	19.01.16
15/00004/NMA	Application for a non-material amendment following grant of planning permission 14/01064/FUL - Change of use of office and land to construction training ground	Granted	05.01.16
18/00920/FUL	Demolition of existing buildings on site and erection of 78 residential dwellings with associated open space, landscaping, amenity space, car and cycle parking and other associated works	Granted with S106 Agreement	13.02.20
18/00921/FUL	Demolition of existing buildings on site and erection of 65 residential dwellings with associated open space, landscaping, amenity space, car and cycle parking and other associated works	Pending Consideration	
20/01101/VAR	Application for variation of Conditions 6c, 9, 11, 17, 18	Pending Decision	

of application 18/00920/FUL  
granted 13/02/2020 for:  
Demolition of existing  
buildings on site and  
erection of 78 residential  
dwellings with associated  
open space, landscaping,  
amenity space, car and  
cycle parking and other  
associated works.

## POLICY CONSIDERATIONS

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



## National Planning Guidance

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

## Braintree District Local Plan Review 2005

RLP2	Town Development Boundaries and Village Envelopes
RLP8	House Types
RLP9	Design and Layout of Housing and Mixed Use Areas
RLP10	Residential Density
RLP22	Accessible Housing and Lifetime Housing
RLP49	Pedestrian Networks
RLP50	Cycleways
RLP51	Cycle Parking
RLP52	Public Transport
RLP54	Transport Assessments
RLP56	Vehicle Parking
RLP65	External Lighting
RLP67	Flood Risk in Undeveloped Areas
RLP69	Sustainable Urban Drainage
RLP70	Water Efficiency
RLP71	Water Supply, Sewerage & Drainage
RLP72	Water Quality
RLP74	Provision of Space for Recycling
RLP77	Energy Efficiency
RLP80	Landscape Features and Habitats
RLP81	Trees, Woodland Grasslands and Hedgerows
RLP84	Protected Species
RLP90	Layout and Design of Development
RLP91	Site Appraisal
RLP92	Accessibility
RLP93	Public Realm
RLP105	Archaeological Evaluation
RLP106	Archaeological Excavation and Monitoring
RLP138	Provision of Open Space in New Housing Developments

## Braintree District Local Development Framework Core Strategy 2011

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

## Braintree District Publication Draft Local Plan 2017

SP1	Presumption in Favour of Sustainable Development
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SP2	Spatial Strategy for North Essex
SP3	Meeting Housing Needs
SP5	Infrastructure & Connectivity
SP6	Place Shaping Principles
LPP1	Development Boundaries
LPP33	Affordable Housing
LPP37	Housing Type and Density
LPP44	Sustainable Transport
LPP45	Parking Provision
LPP49	Broadband
LPP50	Built and Historic Environment
LPP51	An Inclusive Environment
LPP52	Health and Wellbeing Impact Assessment
LPP53	Provision of Open Space, Sport and Recreation
LPP55	Layout and Design of Development
LPP63	Archaeological Evaluation, Excavation and Recording
LPP67	Natural Environment and Green Infrastructure
LPP68	Protected Species, Priority Spaces and Priority Habitat
LPP69	Tree Protection
LPP70	Protection, Enhancement, Management and Monitoring of Biodiversity
LPP71	Landscape Character and Features
LPP73	Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
LPP74	Climate Change
LPP75	Energy Efficiency
LPP78	Flooding Risk and Surface Water Drainage
LPP79	Surface Water Management Plan
LPP80	Sustainable Urban Drainage Systems
LPP81	External Lighting

### Crossing Neighbourhood Plan

The Crossing Neighbourhood Plan has been formally adopted and forms a material consideration in the determination of the planning application.

Relevant policies to this application include inter alia:

- Policy 1: Protecting and Enhancing the Natural Environment
- Policy 2: Protection of Special and Sensitive Landscapes
- Policy 4: Protecting the Historic Environment
- Policy 5: Infrastructure, Services, and Utilities
- Policy 6: Protecting and Enhancing Community Facilities and Public Open Spaces
- Policy 7: Housing
- Policy 8: Design, Layout, Scale, Character, and Appearance of New Development
- Policy 9: Economy
- Policy 11: Developer Contributions

## Other Material Considerations

### Essex Design Guide

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

### Essex Parking Standards/Urban Space Supplement

### Village Design Statement

### Open Space SPD

## INTRODUCTION / REASON FOR APPLICATION BEING CONSIDERED AT COMMITTEE

This application is being reported to the Planning Committee in accordance with the Council's Scheme of Delegation as the application is considered to be of significant public interest. The Parish Council also object to the application contrary to Officers recommendation of approval.

## SITE DESCRIPTION

The application site measures 5.3 hectares in totality. The site currently comprises a multitude of industrial/commercial uses and pre-fabricated buildings ranging in size. Historically the site had been a potato and vegetable distribution and processing factory (until 2008). More recently it has been in operation as a haulage yard and business area. The site is now however not operational following the grant of planning permission under application reference 18/00920/FUL.

The site is located adjacent to the countryside on three of four sides; however in its entirety the site is well screened due to existing trees, vegetation and existing residential development. In terms of wider context, the site is situated between the villages of Tye Green and Cressing and approx. 4-5km from the centre of Braintree.

## PROPOSAL

In accordance with Section 73 of the Town and Country Planning Act, the application in this case seeks to vary a condition that was attached to the planning permission for the erection of 78 dwellings at the site (Application Reference 18/00920/FUL). The proposed condition amendments include:

- Condition 2 (plans)
  - Amendments to a number of house types
  - Amendments to layout

The changes sought to this condition are discussed in the report below.

In addition, Members recently resolved to grant permission for other condition changes to application 18/00920/FUL though variation application

20/01101/VAR. The condition amendments agreed on 20/01101/VAR at Planning Committee of the 13<sup>th</sup> October 2020 are attached to this decision. This is explored further in the 'Conditions' section of the report below.

## CONSULTATIONS

### Essex SUDS

No objection.

### Essex Police

No further comments to make.

### Natural England

No comment.

### Essex Historic Buildings Consultant

No objection

### Waste Services

No objection setting out some previously agreed parameters for the design.

### Ecology

No objection.

### Essex Highways

No objection.

## PARISH/TOWN COUNCIL

### Cressing Parish Council

Outline a number of reservations about the proposed changes:

- Type 13 House Type 4C - a considerable loss of character by the changes proposed. The balance of the building appears to be lost with changes to all windows and loss of external chimney. This is on six plots thereby losing changes in design and character to the street scene where they would have been placed.
- Type 2 House Type 2B - loss of chimney with the consequent loss of the breaking up of the ridge roofline, along with the window changes, removes character to another six plots. Windows would be ok if the chimney is retained.

- Type 1 House Type 2B1 Page 5 - a considerable loss of character to the street scene with this proposed change to another four plots on the estate. The practical reasons given for the removal of the gulleys are understandable but the replacement design along with other changes becomes very bland and loses the break up in ridge line etc.
- Overall – removing large proportion of Essex vernacular content which appears to be cost saving opposed to design improvements

## REPRESENTATIONS

- No other public representations have been received.

## REPORT

Planning permission has been granted under application reference 18/00920/FUL for the demolition of existing buildings on site and erection of 78 residential dwellings with associated open space, landscaping, amenity space, car and cycle parking and other associated works. This application 20/01100/VAR proposes to amend Condition 2 (plans) attached to 18/00920/FUL.

The Planning Practice Guidance states that in deciding an application under Section 73 of the Town and Country Planning Act 1990, the local planning authority must only consider the condition/s that are the subject of the application – it is not a complete re-consideration of the application. It also states that the original planning permission will continue to exist whatever the outcome of the application under Section 73.

### Condition 2: Plans

This application proposes a number of changes to both the previously approved house types and minor alterations to the layout of the development. These amendments are interrelated but are split up below for ease of reference.

### **Layout**

The layout changes proposed are relatively minor in nature, as the core layout of the development would remain as approved. There are however some amendments sought to some aspects which are discussed below.

The main change to the layout is a proposed re-plan of the front part of the site. The area of public open space would remain, however the proposals include the relocation of Plot 45 from the front part of the site, to the south west corner of the site behind No.6-7 Hawbush Green where Plot 18 is located. Plot 18 would also be changed from a 4 bedroom dwelling to a two bedroom dwelling, and be joined up with Plot 45, to form a new semi-detached pair. Therefore no unit would be lost, but the size of one dwelling would be reduced from the approval. Plots 10 to 17 would be shifted slightly to

the north, and Plot 19 shifted slightly south as part of the insertion of Plot 18/45.

The other change at the front part of the site, was the change of Plot 41 from a three bedroomed unit to a four bedroomed unit. The application initially sought also to change the orientation of Plot 41, to be inward facing opposed to facing out onto Polecat Road as was previously approved. Officers however raised concerns about the change in orientation, and reiterated the importance of the unit to have its main frontage onto Polecat Road. Concurrently, Officers also raised concerns about the side elevation as it was not considered to have sufficient visual interest. This plot was therefore subsequently amended to be re-orientated, and the side elevation improved to provide a better dual frontage by adding in additional windows. This was also transferred over to the other plots which have a high degree of public visibility.

In terms of other changes at the frontage, Plots 42 and 43 remain a semi-detached pair, although have been changed to be a combination of two and three bedroom houses, opposed to both being 3 bedroom houses. Their design has also been altered to include a main gable feature to facilitate a greater degree of visual interest. Plot 44 then is shifted down to become a detached dwelling similar to approved Plot 46 below it.

There have also been some other minor amendments to the approved layout. These changes include:

- Plots 5 and 6 – stepped back from the edge of the street to open up the view through the site from north to south.
- Plots 20 to 25 – repositioned away from the edge of the street to ensure that the roofs of Plots 20 and 25 (on the ends of the group) do not overhang the adoptable highway.
- Plots 28 and 29 – semi-detached pair of two bedroom houses enlarged to a pair of three bedroom houses, taking advantage of the space in the central perimeter block. The mix of accommodation is balanced by the change to Plots 61 and 62 which are reduced from three bedroomed to two bedroomed properties.
- Plots 52 and 54 to 57 – garages moved forward to protect the existing field boundary.
- Plots 58 to 63 – shifted to the east so that the roof of Plot 63 does not overhang the adoptable highway.
- Plots 70 and 71 – moved back from the street to create a consistent building line between Apartment Block B and Plots 72 and 73.

The changes above are considered to be minor in nature and would not affect the overall acceptability of the scheme. As such, with the secured changes, it is considered that the proposed layout amendments are acceptable.

### **Affordable Housing**

The proposal also seeks to change the position of four affordable units. These were originally Plots 63-60 and backed onto Apartment Block B. They have

since been swapped with Plots 5-6 and 29-30, so that they now back onto other affordable Plots 36-39. The changes are however minor in nature and still allow for suitable separation of the clusters of affordable housing. It is considered this change is acceptable.

## **House Types**

The application also seeks a number of changes to the approved house types. It is reported that the majority of the changes are to enhance the quality of accommodation which would be provided to future occupiers. In summary the changes include revising the size and location of some fenestration, while some minor internal alterations were included to add an en-suite bathroom to the three bedroom houses.

One of the main changes was the loss of exposed rafter feet on all properties, as well as amendments/loss of chimneys to some house types. House Type 2B (affordable) was proposed to lose the chimney, while house type 3C and 4C would lose the chimney. House Type 4EB would amend the chimney to be further in, opposed to the edge of the ridge.

While the proposed chimneys and rafter feet would be superficial in nature, they still add an extra visual level of quality for the development as a whole. Officers therefore requested that the exposed rafter feet be retained on all appropriate dwellings, while the chimneys would be reinstated on the affordable house type 2B. The developer agreed to these revisions. Therefore, as per the original application permission, Officers consider there would not be a tenure specific approach to development at this site.

In terms of other house type changes, the plans now provide more clarity in respect to the distribution of render and brick, with a consistent approach adopted across the development for the ratio of brick and render and properties which incorporate both.

Some of the house types have also been made to have smaller ridges, such as House type 2C and 4EB. Perhaps the most notable change was house type 2B-1 (of which there were few) which had gable fronted properties. It is understood that these properties however create onus management responsibility for future occupiers and were subsequently amended to more conventional dwelling types. While this does reduce the more individual nature of the development, it would bring about more consistency and in Officers view would not be objectionable in this case. House Type 4C has had its front gable reduced in size (which is located in only one cluster of the development).

Overall, with the re-imposition of some chimneys and exposed rafter feet, it is considered that the proposed changes to the house types would not unduly reduce the quality of the consented scheme and as such Officers are satisfied that the changes are acceptable.

### Habitat Regulations Assessment (HRA / RAMS)

The application site is situated within the Zone of Influence (ZOI) for the Blackwater Estuary SPA/Ramsar site.

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

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

At the time of considering application reference 18/00920/FUL at the Planning Committee held on 10<sup>th</sup> September 2019, no HRA financial contribution was secured.

Members resolved to grant planning permission for Application Reference 20/01101/VAR at the Planning Committee held on 13.10.2020. As part of this application, and prior to the Planning Committee meeting, the Applicant agreed to the payment of the HRA financial contribution and that this would be secured through the Deed of Variation for the S106 Agreement. This ensures that the development would not have an unacceptable impact on the Blackwater Estuary SPA/Ramsar sites. This payment would amount to £125.58 per dwelling.

If Members resolved to grant planning permission for this variation application, it is proposed that there would be a single Deed of Variation for the S106 Agreement which would ensure both variation permissions are bound by the provisions of the original S106 Agreement and secure the additional HRA financial contribution. However, as both variation applications would represent stand-alone planning permissions, it is important that the HRA financial contribution is secured for this application as well. The additional Head of Term for the S106 Agreement would therefore be as follows:

- **HRA:** As indicated above, the Applicant has agreed to pay the HRA financial contribution of £125.58 per dwelling (£9,795.24). This contribution will be secured through the Deed of Variation for the S106 Agreement.



## Conditions

As indicated above, Members resolved to grant planning permission for Application Reference 20/01101/VAR at the Planning Committee held on 13.10.2020. This variation application sought permission to vary a number of conditions on the extant planning permission. For completeness, it is proposed to incorporate the revised condition wording agreed as part of this variation application, with the current application. Subject to approval, this therefore ensures that, if implemented, the current variation application would consolidate the amendments approved to both the conditions and the previously approved plans. Accordingly, this means that following completion of the Deed of Variation for the S106 Agreement, the first variation application (20/01101/VAR) would need to be issued first, prior to the issue of the decision notice for this variation application. The description of development for this variation application would need to be updated to refer to the variation consent (20/01101/VAR) as opposed to the original extant planning permission (18/00920/FUL).

## CONCLUSION

The Planning Practice Guidance states that in deciding an application under Section 73 of the Town and Country Planning Act 1990, the local planning authority must only consider the condition/s that are the subject of the application – it is not a complete re-consideration of the application. It also states that the original planning permission will continue to exist whatever the outcome of the application under section 73.

In this case, the application proposes a number of alterations to the plans approved by Condition 2 of application 18/00920/FUL. With the revisions secured by Officers, it is considered that the development would still provide a good level of quality secured at the application stage, and as such it is recommended that Condition 2 can be varied accordingly.

Overall, it is considered the development is acceptable and therefore the application is recommended for approval.

## RECOMMENDATION

It is recommended that the following decision be made:  
The Variation application is GRANTED subject to:

1. The completion of a suitable legal agreement to secure the HRA financial contribution of £9,795.24 (£125.58 per dwelling);
2. The decision on Application Reference 20/01101/VAR being issued;
3. The description of development for this Variation application being amended so that it refers to the Variation consent (20/01101/VAR) as opposed to the original planning permission (18/00920/FUL);

4. The following conditions and reasons and in accordance with the approved plans:

#### RECOMMENDATION

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

#### APPROVED PLANS

Site Plan	Plan Ref: IN009-02	Version: B
Garden Study	Plan Ref: IN009-03	Version: B
Housing Mix Plan	Plan Ref: IN009-04	Version: B
Tenure Plan	Plan Ref: IN009-05	Version: B
Materials Details	Plan Ref: IN009-06	Version: B
House Types	Plan Ref: IN009-HT-01	Version: AA Type 1
House Types	Plan Ref: IN009-HT-02	Version: AA Type 2
House Types	Plan Ref: IN009-HT-03	Version: AA Type 3
House Types	Plan Ref: IN009-HT-04	Version: AA Type 4
House Types	Plan Ref: IN009-HT-05	Version: AA Type 5
House Types	Plan Ref: IN009-HT-06	Version: AA Type 6
House Types	Plan Ref: IN009-HT-07	Version: AA Type 7
House Types	Plan Ref: IN009-HT-08	Version: AA Type 8
House Types	Plan Ref: IN009-HT-09	Version: AA Type 9
House Types	Plan Ref: IN009-HT-10	Version: AA Type 10
House Types	Plan Ref: IN009-HT-11	Version: AA Type 11
House Types	Plan Ref: IN009-HT-12	Version: AA Type 12
House Types	Plan Ref: IN009-HT-13	Version: AA Type 13
House Types	Plan Ref: IN009-HT-14	Version: AA Type 14
House Types	Plan Ref: IN009-HT-15	Version: AB Type 15

- 1 The development hereby permitted shall begin on or before the 21st of August 2023.

#### Reason

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

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

#### Reason

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

- 3 No above ground development shall commence unless and until samples of the materials to be used on the external finishes have been submitted to and approved in writing by the local planning authority. The

development shall only be implemented in accordance with the approved details.

Reason

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

- 4 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 0730 hours - 1800 hours

Saturday 0730 hours - 1300 hours

Bank Holidays & Sundays - no work

Reason

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

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

Reason

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

- 6 Where the preliminary contaminated land risk assessment determines that further assessment is required than prior to the commencement of development a comprehensive survey shall be undertaken to assess the nature and extent of any contamination on the site, a copy of the survey findings together with a remediation scheme to bring the site to a suitable condition in that it represents an acceptable risk shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. Such agreed measures shall be implemented and completed prior to the commencement of development hereby approved.

Notwithstanding the above, should contamination be found that was not previously identified or not considered in the remediation scheme agreed in writing with the Local Planning Authority that contamination shall be made safe and reported immediately to the Local Planning Authority. The site shall be re-assessed in accordance with the above and a separate remediation scheme shall be submitted to and agreed in writing with the Local Planning Authority. Such agreed measures shall be implemented

and completed prior to the first occupation of any parts of the development.

Upon commencement of remediation works at the site, the developer shall give written notice to the Local Planning Authority which shall include an anticipated duration/completion estimate of the remediation works. Within four weeks of completion of the remediation works of the relevant phase a validation report undertaken by competent person or persons and the agreed remediation measures shall be submitted to the Local Planning Authority for approval. There shall be no residential occupation of the site (or beneficial occupation of the office building hereby permitted) until the Local Planning Authority has approved the validation report in writing. Furthermore, prior to occupation of any property hereby permitted, the developer shall submit to the Local Planning Authority a signed and dated certificate to confirm that the remediation works have been completed in strict accordance with the documents and plans comprising the remediation scheme agreed in writing with the Local Planning Authority.

**Reason**

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

- 7 No unbound material shall be used in the surface finish of the driveway within 6 metres of the highway boundary of the site.

**Reason**

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

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

- Safe access to/from the site including details of any temporary haul routes and the means by which these will be closed off following the completion of the construction of the development;
- The parking of vehicles of site operatives and visitors;
- The loading and unloading of plant and materials;
- The storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling/disposing of waste resulting from demolition and construction works;
- Delivery, demolition and construction working hours.
- A method statement for badger/small mammal protection during construction.

The approved Construction Method Statement shall be adhered to throughout

the construction period for the development.

Reason

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

- 9 No development, except for demolition, shall commence, until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
- o Demonstrate that storage features such as the attenuation basin have suitable half drain times. Storage should half empty within 24 hours wherever possible.
  - o Final modelling and calculations for all areas of the drainage system.
  - o Detailed engineering drawings of each component of the drainage scheme, this includes cross sections of each component.
  - o A final drainage plan which details exceedance and conveyance routes, finished floor levels and ground levels, and location and sizing of any drainage features.
  - o A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Reason

To protect the amenities of the occupiers of nearby residential properties and the surrounding area. The statement is required prior to the commencement of development to ensure that measures are in place to safeguard the amenity of the area prior to any works starting on site.

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

Reason

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

- 11 Prior to first occupation of the development a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies shall be submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

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

Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

- 13 All measures and/or works shall be carried out in accordance with the approved details contained in the Ecological Appraisal (The Environmental Dimension Partnership Ltd, April 2018), Landscape Management Plan (The Environmental Dimension Partnership Ltd, May 2018), as submitted with the planning application and agreed with the Local Planning Authority.

#### Reason

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

- 14 No development shall take place unless and until a construction environmental management plan (CEMP: Biodiversity) is submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

#### Reason

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

- 15 The development shall not be occupied unless and until a Biodiversity Enhancement Strategy for Protected and Priority species, following the details contained within the Ecological Appraisal (The Environmental Dimension Partnership Ltd, April 2018) is submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in situ thereafter.

**Reason**

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

- 16 No above ground development shall commence unless and until the following (including an implementation timetable) has been submitted to and approved in writing by the Local Planning Authority:

(a) details of the location and design of refuse bin and recycling materials storage areas (for internal and external separation) and collection points,

(b) details of any proposed external lighting to the site including a strategy to protect bats

The development shall be constructed in accordance with the approved details/specification and thereafter so retained.

**Reason**

To minimise pollution of the environment and to safeguard the amenities of the locality and the appearance of the development.

- 17 Prior to the first occupation of the development hereby approved a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate.

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

All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.



#### Reason

To minimise pollution of the environment and to safeguard the amenities of the locality and the appearance of the development.

- 18 No development shall commence until details pertaining to the list below have been submitted to and approved in writing by the local planning authority. These details shall include:

- Earthworks showing existing and proposed finished levels or contours;
- Proposed and existing functional services above and below ground [e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant];

The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance which shall be submitted and approved in writing by the Local Planning Authority prior to first occupation of the development.

#### Reason

These details are required prior to commencement of development as earthworks and services are essential to understand before development commences.

- 19 No above ground development shall commence until details pertaining to the list below have been submitted to and approved in writing by the local planning authority. These details shall include:

- Means of enclosure and retaining structures;
- Boundary treatment[s];
- Other vehicle and pedestrian access and circulation areas;
- Colour and type of material for all hard surface areas and method of laying;
- Minor artefacts and structures [e.g. furniture, play equipment, refuse or other storage units, signs, external letter boxes etc.];
- Renewable energy installations where relevant;
- Lighting, floodlighting
- An implementation programme, [including phasing of work where relevant].

Any landscaping works shall be carried out in accordance with the approved details before any relevant part of the development is first occupied in accordance with the agreed implementation programme.

The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance which shall be submitted and approved in writing by the local planning authority prior to first occupation of the development.

Reason

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

CHRISTOPHER PAGGI  
PLANNING DEVELOPMENT MANAGER